

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 85/MP/2022 alongwith IA No. 24/2022**

Subject : Petition under Section 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication and directions in regard to the Power Purchase Agreement dated 22.4.2007 with Coastal Gujarat Power Limited.

Petitioner : Punjab State Power Corporation Limited (PSPCL).

Respondents : Coastal Gujarat Power Limited (CGPL) and 9 Ors.

**Petition No. 123/MP/2022**

Subject : Petition under Section 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication and directions in regard to the Power Purchase Agreement dated 22.4.2007 with Coastal Gujarat Power Limited.

Petitioner : Uttar Haryana Bijli Vitran Nigam Limited and Anr.

Respondents : Coastal Gujarat Power Limited (CGPL) and 8 Ors.

**Petition No. 246/MP/2022 alongwith IA No. 8/2023 & 35/2023**

Subject : Petition under Section 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication and directions in regard to the Power Purchase Agreement dated 22.4.2007 with Coastal Gujarat Power Limited.

Petitioner : Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL).

Respondents : Coastal Gujarat Power Limited (CGPL) and 9 Ors.

**Petition No. 107/MP/2023**

Subject : Petition under Sections 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication of disputes and for directions to supply electricity under the contracted capacity of 1805 MW under the Power Purchase Agreement dated 22.04.2007 between Tata Power and GUVNL; compensation/damages for short-supply/non-supply; and for consequential reliefs including refund

Petitioner : Gujarat Urja Vikas Nigam Limited.

Respondents : Tata Power Company Limited and 7 Ors.

Date of Hearing : **29.5.2023**

Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member

Parties Present : Shri Vikas Singh, Sr. Advocate, MSEDCL  
Shri Basava P Patil, Sr. Advocate, MSEDCL  
Shri G. Sai Kumar, Advocate, MSEDCL  
Shri Akash Lamba, Advocate, MSEDCL  
Ms. Nikita Choukse, Advocate, MSEDCL  
Shri Anand Ganesan, Advocate, GUVNL  
Ms. Ashabari Thakur, Advocate, GUVNL  
Ms. Poorva Saigal, Advocate, PSPCL & HPPC  
Shri Shubham Arya, Advocate, PSPCL & HPPC  
Ms. Pallavi Saigal, Advocate, PSPCL & HPPC  
Shri Ravi Nair, Advocate, PSPCL & HPPC  
Ms. Shikha Sood, Advocate, PSPCL & HPPC  
Ms. Anumeha Smiti, Advocate, PSPCL & HPPC  
Shri Sajan Poovayya, Sr. Advocate, TPCL  
Shri Sanjay Sen, Sr. Advocate, TPCL  
Shri Shreshth Sharma, Advocate, TPCL  
Ms. Shubhi Sharma, Advocate, TPCL  
Shri Neel Rahate, Advocate, TPCL  
Shri Deepak Thakur, Advocate, TPCL  
Shri Alok Mishra, WRLDC

### **Record of Proceedings**

Learned senior counsel for the Petitioner, MSEDCL in IA No. 35/2023 in Petition No. 246/MP/2022 submitted that the present Petition has been filed, *inter alia*, seeking declaration that the Respondents Nos. 1 & 2 (CGPL & TPCL) were in violation of their obligations due to non-supply of power in terms of the Power Purchase Agreement ('PPA') dated 22.4.2007 and are, therefore, liable to pay the loss accrued to the Petitioner on the said count. Learned senior counsel, however, pointed out that the claim made by the Petitioner in the Petition pertained only to the non-supply of power by the Respondents for the period from 1.9.2021 to 15.10.2021 and as such does not cover the subsequent/future period. Learned senior counsel further submitted that in the meantime, the Respondent, TPCL issued the seller's Preliminary Default Notice on 12.2.2023 and subsequently, a letter dated 4.5.2023 initiating the termination of the PPA. It was against the aforesaid Preliminary Default Notice and letter, the Petitioner has moved IA No. 35/2023. It was submitted by the learned senior counsel that during the course of mentioning on 16.5.2023, it was agreed that till the listing of the said IA on 29.5.2023 (i.e. till today), TPCL will not proceed to take an action in pursuance of the letters dated 12.2.2023 and 4.5.2023. Learned senior counsel further submitted that, keeping in view that the present Petition only relates to its claims against the Respondent, TPCL, for non-supply of power for the particular past period, the Petitioner may be permitted to explore the possibility of settlement with the Respondent, TPCL for the future supply period and the matter may be deferred for exploring the possibilities of settlement.

2. Learned senior counsels for Respondents Nos. 1 & 2, CGPL & TPCL also indicated their willingness to explore the possibility of settlement with the Petitioner MSEDCL including entering into a Supplementary Agreement. Learned senior counsels also fairly indicated that the Respondents will not proceed to take any coercive actions against the Petitioner MSEDCL, in terms of its letters dated 12.2.2023 and 4.5.2023 until the parties are engaged in exploring the possibility of settlement. Learned senior counsel further submitted that to ensure a time bound solution to the same, a time line of four weeks be prescribed for the negotiation process.

3. Learned counsel for GUVNL submitted that Petition No. 107/MP/2023 has been filed by it for adjudication of the disputes and for directions to supply the electricity under the contracted capacity of 1805 MW under the PPA dated 22.4.2007, compensation/ damages for short supply/non-supply and other consequential reliefs. Learned counsel submitted that since the said Petition has yet to be admitted, the Commission may issue the notice and direct the parties to complete the pleadings therein. Learned counsel also submitted that GUVNL's attempts to negotiate and settle the issue have not yet ructified on account of TPCL's refusal to sign the Supplemental PPA due to disagreement over certain clauses therein. However, GUVNL has no objection to exploring the possibility of settlement as suggested.

4. Learned counsel for PSPCL and HPPC, in Petition No. 85/MP/2022 and Petition No. 123/MP/2022 submitted that the Petitioners have also moved IAs bearing Dairy Nos. 222/2023 and 223/2023 in these matters, seeking, *inter alia*, a stay on the seller's Preliminary Default Notice dated 12.2.2023 as well as a letter dated 12.5.2023 issued by TPCL till the main matters are decided by the Commission. Learned counsel further submitted that the Respondent TPCL's indication regarding not taking coercive action in terms of its Preliminary Default Notice be also extended to the Petitioners PSPCL and HPPC. She further submitted that the Petition deals with a claim for compensation for a period of non-supply of TPCL.

5. Learned senior counsels for TPCL expressed their reservations on extending such protection to PSPCL and HPPC, citing the prayers made by them in their Petitions and significantly not having expressed any willingness towards exploring the possibility of settlement.

6. In response to a specific query of the Commission regarding possibilities of settlement, learned counsel for HPPC and PSPCL submitted that she would convey the same to PSPCL and HPCC and sought liberty to take necessary instructions in this regard.

7. Considering the above and keeping in view that learned senior counsels for MSEDCL and TPCL have indicated their willingness to explore the possibilities of settlement for the supply of power for a future period, the Commission permitted the parties to make conciliatory efforts in this regard, and in the meantime, TPCL will not take any coercive actions in connection with its Preliminary Default Notice issued under the PPA in respect of all the procurers. Keeping in view that the Commission has extended protection to all the procurers, it is expected that all the other procurers will also join/take part in such a conciliation process, keeping in view the overall interests of their consumers and the power sector as a whole. The parties will file the outcomes of their conciliation process, on affidavit, within eight weeks.

8. With regard to Petition No. 107/MP/2023, the Commission admitted the Petition and directed parties to complete the pleadings within eight weeks.

9. The Petitions along with the IAs therein will be listed for hearing on 16.8.2023.

**By order of the Commission**  
**Sd/-**  
**(T.D. Pant)**  
**Joint Chief (Law)**