

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 250/MP/2019**

**And**

**IA No. 3/2022**

**Coram:**

**Shri P.K. Pujari, Chairperson**

**Shri I. S. Jha, Member**

**Shri Arun Goyal, Member**

**Shri P.K. Singh, Member**

**Date of Order: 21<sup>st</sup> February, 2022**

**In the matter of**

Petition under Section 79(1)(b) and 79(1)(f) of the Electricity Act, 2003 for recall of the order dated 12<sup>th</sup> April, 2019 passed by the Commission in Petition No. 374/MP/2018 granting approval to the Supplementary Agreements (two) dated 5.12.2018.

**And**

**In the matter of**

Gujarat Urja Vikas Nigam Limited,  
Sardar Patel Vidyut Bhawan,  
Race Course Circle,  
Vadodara-390 007.

**.....Petitioner**

**Vs.**

1. Adani Power (Mundra) Limited,  
Shikhar, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad-380 009.

2. Government of Gujarat,  
Through the Principal Secretary,  
Energy and Petrochemicals Department,  
Block No. 5, 5<sup>th</sup> Floor, Sachhivalaya,  
Gandhinagar- 382 010.

**.....Respondents**

**ORDER**

The Petitioner, Gujarat Urja Vikas Nigam Limited, has filed the present  
Petition along with the following prayers:

*“(a) Recall the order dated Order dated 12<sup>th</sup> April 2019 passed by the Hon’ble Commission in Petition No. 374/MP/2018 granting approval to the Supplementary Agreements {two} Dated 05.12.2018.*

*(b) Declare that the two Supplemental Agreements dated 5.12.2018 entered into between GUVNL and Adani in regard to the PPAs dated 2.2.2007 and 6.2.2007 are void on account of the mistake as to the matter of fact and are, therefore, not enforceable;*

*(c) Declare that Adani has been in breach of the Supplemental Agreements dated 5.12.2018 when Adani has proceeded to claim and enforce the relief for the period from the date of the commercial operation of the generating units 5 and 6 of the Mundra Power Project till 14.10.2018 contrary to the provisions of the Supplemental Agreements;*

*(d) Direct Adani to refund the amount paid by GUVNL to Adani in terms of the Supplemental Agreements dated 5.12.2018 and also any further amount that may be paid to Adani by GUVNL till the adjudication of the present petition before this Hon'ble Commission with interest at the rate of SBI PLR plus 2% per annum;*

*(e) Award cost of the petition; and*

*(f) Pass any such order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case."*

2. The matter was last heard on 22.11.2021 through video conferencing and after hearing the parties, order in the Petition was reserved.

3. Subsequently, the Petitioner and the Respondent No. 1, Adani Power (Mundra) Limited, have jointly filed Interlocutory Application (IA) No. 3/IA/2022 in Petition No. 250/MP/2019 with the following prayers:

*"(a) Permit the Petitioner and Respondent No. 1 to place on record the Settlement Deed dated 03.01.2022 entered in to between the parties as contained in Annexure A to the present Application;*

*(b) Dispose of Petition No. 250/MP/2019 in terms of the Settlement Deed holding that the parties shall be governed and bound by the terms of the Settlement Deed; and*

*(c) Pass such further orders as this Commission may deem fit and appropriate."*

4. In the IA No. 3/IA/2022, it has been submitted jointly by the Petitioner and the Respondent No. 1 that during the pendency of the present Petition, the Petitioner and the Respondent No. 1 have arrived at a settlement in regard to the subject matter of the Curative Petition No. 34 of 2020 pending before the Hon'ble Supreme Court filed by the Petitioner, challenging the order dated 2.7.2019 passed in Civil

Appeal No. 11133 of 2011. The terms of the settlement have been reduced in writing and duly signed by the parties.

5. It has been further submitted that the Petitioner and Respondent No. 1 have also agreed on the disposal of the proceedings pending before the Hon`ble Supreme Court, the APTEL and the Commission, as set out in the Settlement Deed dated 3.1.2022.

6. The Respondent, GUVNL vide its affidavit dated 14.2.2022 has submitted that the Hon`ble Supreme Court vide its order 8.2.2022 in Curative Petition No. 34 of 2020 has taken on record the Settlement Deed dated 3.1.2022 holding as under:

*“During the pendency of the Curative Petition, the parties have settled the dispute.*

*The Petitioner and respondent No. 1 have filed a joint application, IA No. 1421/2022, to place on record the deed of settlement dated 03.01.2022 entered between them, regarding the subject matter of the present Petition. The Settlement Deed dated 3.1.2022 is taken on record.*

*In view of the above, we dispose of the present Curative Petition with the observation that the inter se relationship between the parties shall now be governed by the settlement deed dated 3.1.2022.*

*I.A.No. 1421/2022 and Curative Petition (C) No. 34 of 2020 are disposed of in the above terms.”*

7. The Petition is being decided by circulation. In view of the submissions of the parties that the present Petition may be disposed of in view of the Settlement Deed dated 3.1.2022 entered in to between the parties and order of the Hon`ble Supreme Court dated 8.2.2022 in Curative Petition No. 34/2020, the Petition is being disposed of without going into the merits.

8. Accordingly, the Petition No. 250/MP/2019 and I.A. No. 3/2022 are disposed of in terms of the above. The Settlement Deed dated 3.1.2022 forms part of the order.

**Sd/-  
(P.K.Singh)  
Member**

**sd/-  
(Arun Goyal)  
Member**

**sd/-  
(I.S. Jha)  
Member**

**sd/-  
(P.K.Pujari)  
Chairperson**