

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.92/MP/2023 along with IA No.24/2023**

- Subject : Petition under Section 142 of the Electricity Act seeking to initiate appropriate action against Gujarat Urja Vikas Nigam Limited inter alia against its deliberate non-compliance of directions as issued by this Central Commission through its Order dated 03.01.2023 in Petition No. 128/MP/2022.
- Date of Hearing : **3.8.2023**
- Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : Tata Power Company Limited (TPCL)
- Respondents : Gujarat Urja Vikas Nigam Limited (GUVNL) and 2 Ors.
- Parties Present : Shri Shreshth Sharma, Advocate, TPCL  
Ms. Shubhi Sharma, Advocate, TPCL  
Shri Deepak Thakur, Advocate, TPCL  
Shri Neelkandan Rahate, Advocate, TPCL  
Shri M. G. Ramachandran, Sr. Advocate, GUVNL  
Ms. Swapna Seshadri, Advocate, GUVNL  
Ms. Srishti Khindaria, Advocate, GUVNL  
Ms. Ashabari Thakur, Advocate, GUVNL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed seeking to initiate the appropriate action under Section 142 of the Electricity Act, 2003, against the Respondent, GUVNL, for a deliberate non-compliance of directions as issued by the Commission through its order dated 3.1.2023 in Petition No. 128/MP/2022. The learned counsel further referred to the Petition and narrated the sequence of events in detail. Learned counsel pointed out that as per the directions of the Commission vide order dated 3.1.2023 in Petition No. 128/MP/2022, it was incumbent upon GUVNL to continue to maintain the Letter of Credit (LC) commensurate to fixed charges and energy charges for a week for the power supplied during the currency of Section 11 Directions until it makes complete payment for the power availed under Section 11 Directions. The learned counsel further submitted that while initially, GUVNL had increased the quantum of LC to Rs.205 crore, it thereafter, unilaterally revised the value of LC to Rs.105 crore w.e.f. 16.2.2023 in complete disregard to the directions of the Commission under the order dated 3.1.2023. the learned counsel clarified that the Petitioner is not seeking recovery of any amount due as per the Commission's order dated 3.1.2023 in the present case and in no manner is seeking to amend/bypass the APTEL's order dated 6.4.2023 in IA Nos. 105 & 175 of 2023 in Appeal No. 92 of 2023, whereby the APTEL has granted stay on the order dated 3.1.2023 subject to the payment of Rs. 143 crore by the Respondent, GUVNL. Learned counsel stated that Petitioner is only

seeking to bring to the notice the non-compliance of the Commission's order by the Respondent and that such non-compliance predates the grant of stay by APTEL.

2. Learned senior counsel for the Respondent, GUVNL, strongly opposed the maintainability of the Petition and submitted that this Petition amounts to an abuse of process of law. The learned senior counsel further referred to the order of APTEL dated 6.4.2023 and submitted that the Commission's order dated 3.1.2023 has been stayed by APTEL in entirety subject to GUVNL making payment of Rs. 143 crore within two weeks, which was duly paid by GUVNL. The learned senior counsel also added that the matter pertaining to the Ministry of Power's Section 11 Directions dated 5.5.2022 and the period covered thereunder has already expired on 31.12.2022.

3. Considering the submissions made by the learned counsel for the Petitioner and the learned senior counsel for the Respondent, GUVNL, the Commission ordered as under:

(a) Issue notice on 'maintainability' of the Petition.

(b) The Respondents to file their objections on maintainability within two weeks with a copy to the Petitioner, who may file its response thereon within two weeks thereafter.

4. The Petition along with IA will be tentatively listed for hearing on 'maintainability' on **8.9.2023**.

**By order of the Commission**

**Sd/-  
(T.D. Pant)  
Joint Chief (Law)**