

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.469/MP/2024

Subject : Petition under Sections 79(1)(f) of the Electricity Act, 2003 for adjudication of disputes in relation to the claims of Adani Power Limited for Part Load Compensation purportedly under the IEGC for FY 2021-22, 2022-23, 2023-24 & 2024-25 and other reliefs.

Petitioner : Gujarat Urja Vikas Nigam Limited (GUVNL)

Respondents : Adani Power Limited (APL) and Ors.

Petition No. 252/MP/2024

Subject : Petition under Sections 61 read with 79 of the Electricity Act, 2003 read with Regulation 6.3B of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (amended from time to time) and this Commission's Order No. L1/219/2017/CERC dated 05.05.2017 for seeking, inter-alia, implementation of the said Regulation 6.3B and Order dated 05.05.2017 and directions to the Respondent No. 1 for making payment for Degradation of Heat Rate, Auxiliary Power Consumption compensation and Secondary Fuel Oil consumption on account of Part Load Operation and Multiple Start/Stop of Unit nos. 1 to 4 (330x4 MW) & Unit nos. 5 to 6 (660x2 MW) of Adani Power Limited out of total capacity of its Mundra Power Plant 4620 MW (i.e., Unit nos. 1 to 4 (330x4 MW) & Unit nos. 5 to 9 (660x5 MW), located in Mundra, Kutch, Gujarat.

Petitioner : Adani Power Limited (APL)

Respondents : Gujarat Urja Vikas Nigam Limited (GUVNL) and Ors.

Date of Hearing : **30.12.2024**

Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member

Parties Present : Ms. Ranjitha Ramachandran, Advocate, GUVNL
Ms. Srishti Khindaria, Advocate, GUVNL
Shri Aneesh Bajaj, Advocate, GUVNL
Shri Vipul Lathiya, GUVNL

Shri Amit Kapur, Advocate, APL
Shri Gaurav Dudeja, Advocate, APL
Shri Dhruval Singh, Advocate, APL
Ms. Surbhi Gupta, Advocate, APL

Record of Proceedings

As both these Petitions are Cross-Petitions to each other, they were taken up for the hearing together.

2. Learned counsel for GUVNL in Petition No. 469/MP/2024 submitted that the said Petition had been filed in regard to the invalid claims of Respondent No. 1, Adani Power Limited (APL) for part load compensation purportedly under the Indian Electricity Grid Code for the FY 2021-22 onwards. During the course of the hearing, learned counsel mainly submitted as under:

(i) APL is not eligible for claiming part load compensation either in terms of the Indian Electricity Grid Code, 2010 (IEGC 2010) or in terms of the Indian Electricity Grid Code, 2023 (IEGC 2023).

(ii) Regulation 6.3B of IEGC 2010 specifically states that where the Central generating station or inter-State generating station, whose tariff is either determined or adopted by this Commission, is directed by the concerned RLDC to operate below the normative plant availability factor but at or above technical minimum, may be compensated on the average unit loading. Undisputedly, APL's tariff has been adopted by GERC and also, there is no such direction by any RLDC.

(iii) The issue is not of regulation of tariff but determination or adoption of tariff. The Regulations and the procedure thereto by the Commission are very clear and specific in that it does not apply on the basis of the tariff being regulated by this Commission when the tariff determination by adoption under Section 63 of the Act is by GERC. To buttress the above submission, the reliance was also placed on the language used in the Draft Regulation 6.3B.

(iv) IEGC 2023 refers to the regional entity thermal generating stations, whose tariffs are determined under Section 62 or Section 63 of the Act. However, APL is not a regional entity as defined therein, and its metering, energy accounting, etc. are done by SLDC, Gujarat. APL's ineligibility under IEGC 2023 is also clear from the comments submitted by APL on the First Amendment to IEGC 2023 seeking the modifications.

(v) Regulation 59 of IEGC 2023 has also been relied upon to submit that the provisions relating to the part-load compensation in IEGC 2010 continue to apply even after IEGC 2023 comes into effect. However, as per GUVNL, it is only the mechanism for the part-load compensation as prescribed in IEGC 2010 that continues to apply. The substantive provisions of the IEGC 2023, which restricts the part load compensation only to the regional entity, cannot be ignored.

(vi) In terms of the Supplementary Agreement dated 5.12.2018 and the Settlement Deeds also, APL cannot claim any higher SHR or auxiliary consumption than the

ceiling parameters provided therein. APL, thus, cannot claim any higher SHR or auxiliary consumption under the guise of part load. Further, it has also been agreed that *there shall be no other consideration or claim for Change in Law in relation to variable/energy charges.*

(vii) Without prejudice to the above, APL has not even fulfilled the pre-conditions for consideration of the claim of compensation as prescribed in the Regulations and the Procedure issued thereunder.

(viii) APL has not even furnished the compensation statement certified by the WRPC for any time period as required. In fact, WRPC has refused to issue any statement on the basis that the Regulations do not apply to APL.

(ix) Even otherwise, the calculation of part load compensation by APL is incorrect. APL has considered the compensation for any scheduling below 85%, whereas the Normative Availability, as per the PPAs, is 80%. Having premised its bid on the basis of availability of 80%, the scheduling at 80% or above cannot be considered as causing any de-gradation in parameters or otherwise entitling APL to any part load compensation.

(x) GUVNL is also taking strong objection to the conduct of APL in misusing the PRAAPTI Portal route to arm-twist GUVNL into making the payment for its incorrect claims. Despite its ineligibility for part load compensation, as pointed out above, APL has continued to upload its compensation invoices on the PRAAPTI Portal. As per GUVNL, APL has also filed incorrect affidavits misrepresenting its entitlement to the part load compensation. In the above circumstances, APL ought to be restrained from uploading the supplementary invoices for part load compensation on the PRAAPTI Portal.

3. In response, the learned counsel for APL, on instructions, clarified that after the Record of Proceedings for the hearing dated 22.11.2024, the invoices are not being uploaded on the PRAAPTI Portal.

4. Due to a paucity of time, arguments of learned counsel for GUVNL could not be completed, and the matters remained part-heard.

5. The Petitions will be listed for the hearing on **11.2.2025**.

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