

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 236 OF 2025 & IA No. 1169 OF 2025

and

APL No. 239 OF 2025 & IA No. 1178 OF 2025

Dated: 14th November, 2025

Present: Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

APL No. 236 OF 2025 & IA No. 1169 OF 2025

In the matter of:

Reliance Industries Limited & Anr.

.... Appellant(s)

Versus

Gujarat Electricity Regulatory Commission & Ors.

.... Respondent(s)

Counsel on record for the Appellant(s)

: Hemant Singh
Mridul Chakravarty
Biju Mattam
Sourav Roy
Supriya Rastogi Agarwal
Lakshyajit Singh Bagdwal
Ankita Bafna
Harshit Singh
Nehul Sharma
Alchi Thapliyal
Sanjeev Singh Thakur
Lavanya Panwar
Indrayudh Chowdhury
Devansh Pundir
for App. 1

Hemant Singh
Biju Mattam
Sourav Roy
Supriya Rastogi Agarwal
Lakshyajit Singh Bagdwal
Ankita Bafna
Harshit Singh
Nehul Sharma
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Sanjeev Singh Thakur
Lavanya Panwar
Indrayudh Chowdhury
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for App. 2

Counsel on record for the Respondent(s) : Suparna Srivastava
for Res. 1

Ranjitha Ramachandran
Srishti Khindaria
Aneesh Bajaj
for Res. 2

APL No. 239 OF 2025 & IA No. 1178 OF 2025

In the matter of:

Reliance Industries Limited & Anr. Appellant(s)

Versus

Gujarat Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Hemant Singh
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Ranjitha Ramachandran
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Ranjitha Ramachandran
Srishti Khindaria
Aneesh Bajaj
for Res. 3

ORDER

Though the IA for interim relief is listed before us, both Mr. Basava Prabhu S. Patil, Learned Senior Counsel appearing on behalf of the Appellant, and Mr. M.G. Ramachandran, Learned Senior Counsel appearing on behalf of the 2nd Respondent, agree that, since the submissions they have made in the IA would in effect be the submissions they would be making when the main appeal is finally heard, this Tribunal may, if it deems it so appropriate, consider passing a final order in the main appeal itself at this stage.

While these two appeals arise out of two similar orders passed by the Gujarat Electricity Regulatory Commission (GERC), both Mr. Basava Prabhu S. Patil, Learned Senior Counsel appearing on behalf of the Appellant, and Mr. M.S. Ramachandran, Learned Senior Counsel appearing on behalf of the 2nd Respondent, in Appeal No. 236 of 2025, jointly submit that it would suffice if the facts in Appeal No. 236 of 2025 are alone noted for the disposal of both the Appeals, more so as the order impugned in Appeal No. 239 of 2025 was passed in accordance with the order impugned in Appeal No. 236 of 2025.

The Appellant herein had invoked the jurisdiction of the Gujarat Electricity Regulatory Commission ('GERC' for short), under Section 86 of the Electricity Act, seeking directions/ clarifications that both the Appellant and the Respondents jointly examine and discuss the techno-commercial issues of Parallel Operation Charges (POC) in respect of the

captive power plants at the Appellant's manufacturing plant situated at Dahej and Hazira so as to evolve a mutually acceptable resolution under the aegis of the Commission.

The Appellant herein had hitherto established, and have been operating, a gas-based generation plant. In terms of the regulatory order passed by the GERC dated 01.06.2011, the Appellant was required to pay parallel operation charges on the installed capacity of their gas-based power plant. In view of shortage in availability of gas, the Appellant established a coal-based generation plant in the year 2016-17. By its order dated 10.11.2017, the GERC permitted both the Appellant and the 2nd Respondent to hold joint discussions to evolve a mutually acceptable formula for determination and consequent payment of the applicable POC. The said order also made it clear that a final decision in this regard would be taken by the Commission.

Subsequently, the GERC passed an interim order dated 14.10.2019 wherein it was recorded that the situation and scenario in the last 10 years had undergone many changes; most of the companies having CPPs were not having spare capacity/ standby reserve before 2009 as pointed out in the report of M/s Lahmeyer International; a unique scenario had emerged wherein though the load of the Company had not increased but the installed capacity, considering both the fuel CPPs, was doubled due to inter-changeability of fuels favouring economy of coal versus gas; and it was, therefore, necessary to have a fresh look at the techno-economic conditions that had now arisen in such cases where additional capacities (almost double) were added using different fuels so as to make the operation commercially viable.

It is the Appellant's case that the coal-based power plant which they had established was to provide power to its manufacturing unit as an alternative to the power supplied from their gas-based power plant; at any given point of time, power was being procured by the manufacturing

unit from either the gas based power plant or the coal based power plant and not simultaneously from both; and, in such a situation, they could only be mulcted with parallel operation charges on the basis of the installed capacity of one of the two power plants, and not on a combination of both of them, operating on the bar.

The GERC, thereafter, passed an interim order on 04.07.2022 holding that the Appellant herein shall, subject to the final order that may be passed in the impugned petition, make payment of 60% of the total amount of both the impugned bills within 15 days of the order; they shall be entitled to adjust the amount already paid, if any, under the impugned bills; and all future bills, hereinafter, in the meanwhile shall be payable according to this order till the disposal of the impugned petition. This interim arrangement continued till the petitions were finally disposed of by the impugned order.

In the impugned order, the GERC observed that the conditions that had emerged seemed unprecedented and unique; it warranted a revisit to the techno-commercial conditions for determination of the POC afresh; the Commission had, in its daily order, given liberty to GETCO by stating that GETCO may, if so required, file a petition along with data of the petitioner and similarly placed/ other CPPs and propose a methodology for determination of POC for approval of the Commission; it had also observed that the Commission would issue final orders after giving an opportunity of hearing to all the stakeholders; GETCO had stated that it was not desirous of filing any petition; at present POC, on CPPs connected and operating in parallel with the Grid, was being regulated in Gujarat State and was being levied on installed capacity in accordance with the Commission's Order dated 01.06.2011; considering the circumstances, the Commission was of the view that the parallel operation of captive and open access generators with the State grid had implications on system stability, reactive power management, and

demand supply balance; while charges for such parallel operations were presently levied, concerns had been raised by the petitioner (Appellant herein) regarding the methodology and rationale for their determination; parallel operation was a service being rendered by the Respondent which extended support to the system and, at the same time, it caused voltage dip in the system, harmonics, injection, additional reactive power requirement etc; and, thus, POC was a cost-effective factor, which was also required to be looked into in detail while examining the issues raised in the petition.

The GERC concluded holding that, since the issue involved was important and highly debatable as having a history of prolonged legal battle in the past, the Commission found it necessary to examine the issue in a proper and comprehensive manner; GETCO was a pivotal authority considered as revenue neutral, and duty bound to discharge all functions of planning and co-ordination relating to intra-State transmission system with various agencies including generating companies; keeping in view the concept of non-discriminatory approach as laid down in the Electricity Act in the regulatory regime, they were directing GETCO to cause an in-depth study of all relevant aspects, technical as well as commercial, including the Appellant's specific issue and other stakeholders' such issues, if any; and, on the basis of such study, GETCO shall without fail, and within a period of six months from the date of the order, submit appropriate proposal covering the issues as raised by the Appellant, based on the data and comprehensive study covering other similarly situated CPPs, if any, including the various provisions of the Electricity Act, Grid Code, Commercial principles, and keeping in view the Central Government and the State Government Policies with justification, on which the Commission would take an appropriate decision.

After having so held, the Commission proceeded to hold that, in so far as the issue raised by the Appellant with regard to setting up of additional CPP for fuel redundancy for economic purpose without increasing the load on the Grid was concerned, POC was to be levied on the installed capacity as per Order dated 01.06.2011 for the present. With these observations, the petition was disposed of.

Elaborate submissions on merits have been urged by both Mr. Basava Prabhu S. Patil, Learned Senior Counsel appearing on behalf of the Appellant, and Mr. M. G. Ramachandran, Learned Senior Counsel appearing on behalf of the 2nd Respondent. Among the contentions urged on behalf of the Appellant is that the GERC, despite holding that there is a sea change from when the earlier order dated 01.06.2011 was passed, has nonetheless directed payment of POC in terms thereof; and, even without adjudicating the Appellant's contentions on merits, their Appeal has been disposed of. The submission urged on behalf of the 2nd Respondent is mainly that any order passed by the Commission, in the exercise of its regulatory power, can only be prospective; and, till such an order is passed, the 2011 order would in law continue to remain in force.

It is un-necessary for us to undertake a detailed and elaborate examination of the rival submissions urged by Learned Senior Counsel on either side, as we are of the view that the impugned order passed by the GERC necessitates being set aside for the reasons below mentioned.

As noted earlier in this order, the Commission has itself, after taking note of the earlier order passed by it in June, 2011, observed that there has been a sea change in the last 10 years in the implementation of POC. Having so held, the Commission still insists on the Appellant adhering to the 2011 order till a fresh petition is filed by GETCO and the matter is adjudicated by the Commission thereafter. The submission

urged on the behalf of the Appellant is that the 2011 order did not even envisage a situation where two independent power plants are established and power therefrom utilized by the manufacturing units in the alternative; it would be wholly unjust to mulct them with POC combining the installed capacity of both the power plants when, at any given point of time, power is supplied to the manufacturing unit from only one of the two power plants; it is for this reason that the Appellant herein had invoked the jurisdiction of the GERC; and, even without adjudicating the issue and by merely directing GETCO to submit a fresh proposal within six months, the Commission could not have disposed of the petition filed by the Appellant.

We are of the view that the Commission, if it wanted to conduct a technical study to determine the appropriate POC to be imposed, could well have kept the matter pending and called for a report from a technical expert in this regard. All that adoption of such a course would have resulted in is that the earlier interim order passed by the GERC would have continued to remain in force till the matter was finally adjudicated by the Commission after receipt of the technical report.

We deem it appropriate, in such circumstances, to set aside the impugned order and remand the matter to the Commission for its consideration afresh and in accordance with law. We make it clear that, while we have set aside the impugned order for the reasons aforementioned, the Commission shall, consequent on the order now passed by us, consider all issues urged before it on behalf of both the Appellant and the Respondents in accordance with law, after giving parties, on both sides, a reasonable opportunity of being heard.

Needless to state that the parties to the proceedings before the GERC may, among their submissions, also put-forth their contentions on the nature of the technical report to be obtained, and the body from which such a report should be procured. The GERC shall determine the

issue of parallel operation charges applicable in cases where two captive power plants supply power in the alternative to its captive consumers, if need be, after calling for a report from a technical expert to be appointed by the Commission, and pass an order afresh in accordance with law, uninfluenced by any observations made either in the order now passed by us or in the impugned order passed by the GERC earlier.

The Appellant shall continue to make payment in terms of the interim arrangement put in place by the GERC earlier during the pendency of the petition filed by the Appellants herein, ie prior to when the impugned order was passed.

The Appeals, and all the IAs therein, stand disposed of accordingly.

Ajay Talegaonkar
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

tpd/mks