

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2280 of 2023

In the Matters of:

Petition under section 86 (1) (b) & (f) of the Electricity Act,2003 for claiming compensation on account of events pertaining to Change in Law under Article 13 of the PPA dated 26.02.2007 executed between the Petitioner and the Respondent GUVNL.

Petitioner : ACB (India) Limited
C- 102, L.G.F. Surya Enclave,
New Multan Nagar, Rohtak Road
New Delhi - 110057.

Represented By : Ld. Advocates Mr. Matrugupta Mishra and Mr.
Nipun Dave

V/s.

Respondent : Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan,
Race Course Circle, Vadodara - 390007.

Represented By : Ld. Adv. Mr. Aneesh Bajaj alongwith Mr. Vipul
Lathya

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 08/01/2024.

DAILY ORDER

1. The matter was listed for hearing on 03.01.2024.
2. Ld. Adv. Mr. Matragupta Mishra, appearing on behalf of the Petitioner, submitted that the Petitioner has executed Power Purchase Agreement (PPA) with the Respondent GUVNL on 26.02.2007 for supply of 200 MW power generated from its Project to the Respondent GUVNL for a period of 25 years. It is further

submitted that the present Petition has been filed by the Petitioner under Section 86 (1) (b), (f) of the Electricity Act, 2003 for claiming compensation on account of events pertaining to Change in Law under Article 13 of the PPA dated 26.02.2007 executed between the parties. After referring the prayers stated in the Petition, the counsel of the Petitioner submitted that the Commission may pass an ex-parte *ad interim* order directing the Respondent to make an upfront payment equivalent to 50% of the Change in law compensation amount claimed as per prayer (c), (d) & (e) of the Petition.

3. Ld. Adv. Mr. Aneesh Bajaj, appearing on behalf of the Respondent GUVNL, submitted that the Commission may admit the present Petition as there is no objection to admission of the present Petition. In response to contention of the Petitioner with regard to pass an ex-parte *ad-interim* order directing the Respondent to make an upfront payment equivalent to 50% of the Change in law compensation amount claimed in the Petition, the counsel of the Respondent while opposing the same, requested the Commission that the said interim relief may not be granted to the Petitioner, particularly, in the absence of filing of reply by the Respondent. It is submitted that the Commission while granting the adjournment, may also grant six weeks' time to the Respondent to file the reply in the present matter.
 4. In response to the above contentions of the Respondent, the counsel for the Petitioner submitted that there is no objection to adjournment sought by the Respondent. It is also requested that the Commission may grant four weeks' time to the Petitioner to file rejoinder reply to the reply of the Respondent in the present matter.
 5. We have considered the submissions made by the parties. We note that the present Petition is filed under section 86 (1) (b), (f) of the Electricity Act, 2003 for claiming compensation on account of events pertaining to Change in Law under Article 13 of the PPA dated 26.02.2007 executed between the Petitioner and the Respondent GUVNL.
- 5.1. We note that in the present matter, the Petitioner M/s ACB (India) Limited is developer of 270 MW (135 MW x 2) coal reject based Thermal Power Plant at

Village Kasaipali, District Korba, Chattisgarh after emerging as successful bidder in the competitive bidding carried out by the Respondent GUVNL vide RfQ No. Bid No. 02/LTPP/2006 dated 01.02.2006 and RfP dated 24.11.2006 and executing Power Purchase Agreement (PPA) dated 20.06.2007 is a generating company under Section 2 (28) of the Electricity Act, 2003. We also note that Respondent GUVNL is a licensee, procure power from the aforesaid 270 MW Project of the Petitioner in terms of PPA executed between the parties. Thus, the issue involved in the present matter between the Petitioner and the Respondent is pertaining to amounts claimed on account of Change in Law as per the terms & conditions of the PPA executed between them. Thus, as it is a dispute between a Generating Company and licensee, hence this Commission has jurisdiction to decide the dispute between the parties under Section 86(1)(f) of the Electricity Act, 2003. Hence, we decide to admit the Petition.

- 5.2. We note that the Respondent GUVNL has not filed their reply in the present matter and have sought time for the same. Accordingly, the Respondent GUVNL is directed to file their reply in the present Petition, if any, within six weeks' time from the date of this Order with a copy to the Petitioner. The Petitioner is also at liberty to file its rejoinder reply, if any, within four weeks' time with a copy to the Respondent after receipt of reply from the Respondent GUVNL.
6. Next date of hearing will be intimated separately.
7. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.
Date: 08/01/2024.