

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 2175 of 2023**

**In the matter of:**

**Petition under Section 86 of the Electricity Act, 2003 read with Article 10 of SLPP-I Power Purchase Agreement dated 15.04.1997 and Article 13 of SLPP-II Power Purchase Agreement dated 13.08.2013 executed between Gujarat Industries Power Company Limited and Gujarat Urja Vikas Nigam Limited seeking approval for pass through of the additional capital expenditures to comply with new environmental norms for Thermal Power Plants and per Environment norms for Thermal Power Plants as per Environment Protection (Amendment) Rules, 2015 and subsequent amendment notifications by Ministry of Environment, Forest & Climate Change (MoEF & CC) Government of India, which is a change in law event.**

Petitioner : Gujarat Industries Power Company Limited  
Represented by : Mr. S. Mani  
V/s.  
Respondent : Gujarat Urja Vikas Nigam Limited  
Represented by : Ld. Adv. Ms. Shrishti Khindaria along with Mr. Kripal Chudasama

**CORAM:**

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

**Date: 03/07/2023**

**Daily Order**

1. The matter was kept for hearing on 23.05.2023.
2. Mr. S. Mani, appearing on behalf of the Petitioner submitted that the present Petition has been filed by the Petitioner under Section 86 of Electricity Act, 2003 read with GERC (Multi Year Tariff), Regulations 2006 and GERC (Conduct of Business) Regulations, 2004 and Article 10 of PPA dated 15.04.1997 and Articles 7 & 13 of PPA

dated 13.08.2013 seeking approval of Commission to pass through the additional capital expenditure necessary to upgrade the Electro static Precipitators (ESPs) and Limestone Storage facility of SLPP Stations to comply with revised Emission norms as per the Environmental Protection (Amendment) Rules, 2015, Amendment Rules, 2021 and Second Amendment Rules, 2022 which constitutes the “Change in Law” event as per PPAs and Notification issued by Ministry of Power, Government of India.

- 2.1. It is submitted that the Petitioner has established its 500 MW Surat Lignite Power Plant in two phases, viz (i) 250 MW capacity Phase -I comprising 125 MW Units No. 1 & 2 and thereafter enhanced by another 250 MW Phase -II comprising of 125 MW Units No. 3 & 4 located at Taluka Mangrol, District Surat. It is submitted that the Petitioner had executed separate two-part PPAs with the Respondent GUVNL for a period of 30 years. The Commercial Operation Date of the above Units are 15.02.2000 and 19.04.2010 respectively.
- 2.2. It is submitted that the Ministry of Environment, Forest and Climate Change (MoEF & CC), Government of India notified the Environment (Protection) Amendment Rules, 2015 on 07.12.2015 amending the Environment (Protection) Rules, 1986 which is applicable for the Petitioner’s Power Plant Phase – I & II. The timeline for compliance as per Notification 2015 was December 2017 which was extended upto December 2022. Thereafter, MoEF & CC, Government of India has notified the Environment (Protection) Rules, 2021 and as per this Notification the deadline for compliance of emission norms by Power Plants is further extended to 31.12.2024. Also, Environment (Protection) Rules, 2022 was also notified by MoEF & CC, Government of India and timeline for compliance of PM and NOx emission norms for power plants is 31.12.2024 and SO<sub>2</sub> emission by 31.12.2026.
- 2.3. It is submitted that the Petitioner has undertaken the activities like ESP Upgradation/Retrofit to meet revised PM emission norms and also augmentation of Limestone Storage and feeding system to meet the emission norms after carrying out due diligence. It is further submitted that the aforesaid activities were already started from 2018 to meet the revised emission norms as per Environment (Protection) Rules, 2015 with estimated expenditure of Rs. 86.34 Crores out of which the purchase orders amounting to Rs. 62.34 Crore have been issued and expenditure of Rs. 44.21 Crore incurred.

- 2.4. It is submitted that the Respondent GUVNL has given in-Principal for the upgradation required in Power project Phase – I & II under the “Change in Law” provision of the PPA and it is also instructed by the Respondent to seek approval from the Commission for the additional capital expenditure since increase in capital cost would impact the tariff for the end consumers.
- 2.5. Based on the above, it is submitted that the Commission may admit the present Petition and to allow the additional capital expenditure required to be infused into the Petitioner’s power station and direct the Respondent to implement and pass through the benefits accruing from the additional capital expenditure into the applicable tariff. It is also submitted that the Respondent is yet to file its reply in the Petition. Hence, the Commission while directing the Respondent to file the reply may also grant liberty to the Petitioner to file their rejoinder reply within two weeks’ time after receipt of reply from the Respondent and post the matter for hearing on any date subject to the convenience of the Commission.
3. Ld. Adv. Ms. Shrishti Khindaria, appearing on behalf of the Respondent GUVNL, submitted that the Respondent has no objection to admission of the present Petition and requested for some time to file its reply in the matter.
4. We have considered the submissions made by the parties. We note that the present Petition is filed under Section 86 of Electricity Act, 2003 read with GERC (Multi Year Tariff), Regulations 2006 and GERC (Conduct of Business) Regulations, 2004 and Article 10 of PPA dated 15.04.1997 and Articles 7 & 13 of PPA dated 13.08.2013 seeking approval of Commission to pass through the additional Capital Expenditure for upgradation of the Electro static Precipitators (ESPs) and Limestone Storage facility of SLPP Stations to comply with revised emission norms as per the Environmental Protection (Amendment) Rules, 2015 read with Amendment Rules, 2021 and Second Amendment Rules, 2022 which constitutes the “Change in Law” event as per PPAs and Notification issued by Ministry of Power, Government of India.
- 4.1. We note that in the present matter, the Petitioner Gujarat Industries Power Company Limited has executed the PPA dated 15.04.1997 with the Respondent GUVNL for supply of power from its 2 x 125 MW Lignite based Thermal Power generating station Phase-I and PPA dated 13.08.2013 for 2 x 125 MW Lignite based Thermal Power

generating station Phase-II, at Mangrol Taluka, District Surat. Accordingly, the Petitioner is a generating company within the meaning of Section 2 (28) of the Electricity Act, 2003 and the Respondent GUVNL is a licensee procuring power from the aforesaid Project of the Petitioner in terms of PPAs executed between the parties. We note that the Respondent having no objection to admission of the present matter. Hence, we decide to admit the Petition.

4.2. We note that the Respondent GUVNL has not submitted their reply in the present matter and have sought time for the same. Therefore, the Respondent GUVNL is directed to file their reply in the present Petition, if any, within two weeks' time from the date of this Order with a copy to the Petitioner. The Petitioner is also at liberty to file rejoinder reply, if any, with a copy to the Respondent within two weeks' time after receipt of reply from the Respondent.

5. Next date of hearing will be intimated separately.

6. Order accordingly.

**Sd/-**  
**(S.R. Pandey)**  
**Member**

**Sd/-**  
**(Mehul M. Gandhi)**  
**Member**

**Sd/-**  
**(Anil Mukim)**  
**Chairman**

Place: Gandhinagar  
Date: 03/07/2023.