

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2053 of 2022.

In the Matter of:

Petition under Section 86 (1) (b) of the Electricity Act, 2003 read with Article 9 of the Power Purchase Agreement dated 12.05.2021 executed between Torrent Power Limited (Distribution) and Adani Renewable Energy Eight Limited and Power Purchase Agreement dated 12.05.2021 executed between Torrent Power Limited (Distribution) and Torrent Saurya Urja 2 Private Limited for adjustment in tariff under the claim of Change in Law.

Petitioner : Torrent Power Limited - Distribution

Represented by : Mr. Chetan Bundela and Ms. Luna Pal.

V/s.

Respondent No. 1 : Adani Renewable Energy Eight Limited

Represented By : Nobody was present.

Respondent No. 2 : Torrent Saurya Urja 2 Private Limited

Represented By : Mr. Nisarg Shah

CORAM:

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

Date: 31/01/2023.

DAILY ORDER

1. The matter was listed for hearing on 07.12.2022. When the matter was called out, despite notice, nobody was present on behalf of the Respondents No. 1, Adani Renewable Energy Eight Limited and no communication regarding difficulty in appearing has been received.

2. Mr. Chetan Bundela appearing on behalf of the Petitioner submitted that this Petition is filed for adjustment in tariff under the claim of 'Change in Law' event under Section 86 (1) (b) of the Electricity Act, 2003 read with Article 9 of the Power Purchase Agreements dated 12.05.2021 executed by the Petitioner with the Respondents (i) Adani Renewable Energy Eight Limited and (ii) Torrent Saurya Urja 2 Private Limited.
 - 2.1. It is submitted that pursuant to Competitive Bidding Process initiated by the Petitioner vide tender dated 23/24.12.2020 for procurement of 300 MW power from grid connected Solar Photovoltaic Power Project followed by e-reverse auction followed by addendum dated 08.01.2021 regarding 'Greenshoe option' for additional 300 MW capacity, the Petitioner had entered into Power Purchase Agreement (PPA) on 12.05.2021 with the Respondent No. 1 for 150 MW capacity at a tariff of Rs. 2.22 per unit. Moreover, the Petitioner also executed PPA with the Respondent No. 2 on 12.05.2022 for base capacity of 150 MW plus 'Greenshoe capacity' of 150 MW totaling to 300 MW at tariff of Rs. 2.22 per unit. Subsequently, the Petitioner has also executed Supplemental PPAs with said Respondents.
 - 2.2. It is further submitted that the Petitioner has received notice regarding 'Change in Law' events from the Respondent No. 1 vide letter No. ARE8L/TPL-D/GST CIL/20211210 dated 10.12.2021 informing that the actual impact due to GST rate change notification is not being assessed as project has not been commissioned and hence the Respondent No. 1 will not be able to provide the computation pertaining to the impact on tariff on account of change in GST rate and that the computation with respect to the impact in tariff on account of the change in law event will be provided once the project is commissioned.. Prior to that the Respondent No. 1 had also issued notice under Article 8.1.3 of the PPA on the occurrence of force majeure events and requested the Petitioner to provide appropriate relief. Similarly, the Respondent No. 2 vide its letter no. TPL/300 MW TPL-D Solar/10/2021-02 dated 02.11.2021 had also issued notice regarding time extension for second wave of COVID and for 'Change in Law' events.

- 2.3. It is submitted that pursuant to above representations received by the Petitioner from the Respondents, the Petitioner has approached this Commission with a prayer to consider the claim of the Respondents in terms of Change in Law Events notice for declaration of same and provide 'in-principle' dispensation thereon in terms of the Statutory Provisions. Also, this Commission had earlier approved the deviations sought by the Petitioner in bidding documents and thereafter, adopted the tariff discovered under competitive bidding process. The matter is required to be admitted for decision being within the jurisdiction of the Commission.
3. The representative Mr. Nisarg Shah appearing on behalf of the Respondent No. 2 submitted that there is no objection on the admissibility and accordingly, the Commission may admit this Petition.
4. We have considered the submissions made by the parties. We note that the present Petition is filed by the Petitioner under Section 86 (1) (b) of the Electricity Act, 2003 read with Article 9 of two separate Power Purchase Agreements dated 12.05.2021 executed with the Respondents for considering the claim of the Respondents in terms of Change in Law Events notice for declaration of same and to provide 'in-principle' dispensation thereon in terms of the Statutory Provisions.
- 4.1. The Petitioner M/s Torrent Power Limited has approached this Commission being a distribution licensee with regard to above referred notice received from the Respondents being developers for setting up their respective Solar Photovoltaic Projects in terms of the PPAs executed with the Petitioner post emerging as successful bidders in the Competitive Bidding process followed by e-reverse auction carried out by the Petitioner vide tender dated 23/24.12.2020 alongwith addendums therein issued by the Petitioner culminating into execution of the Power Purchase Agreements (PPAs) with the Respondents. The Respondents individually are 'Generating company' under Section 2 (28) of the Electricity Act, 2003. We also note that Petitioner as a distribution licensee is to procure power from the aforesaid Solar Power Projects of the Respondents in terms of PPAs. Thus, the issue involved in the present matter between the Petitioner and the Respondent is pertaining to consideration of the claim by the Respondents in their notice as per the terms & conditions of the PPA *inter alia* executed amongst them. Hence, this

Commission has jurisdiction to decide the same in accordance to the provisions of the Electricity Act, 2003 readwith the terms & conditions agreed between the parties in the PPA. Hence, the Petition is admitted.

- 4.2. The parties may prefer to file further submission, if any, with a copy to other side who is at liberty to file its response, if any.
- 4.3. Next date of hearing will be intimated separately.
5. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.
Date: 31/01/2023.

