

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 972 of 2009

In the Matter of:

**Petition for adjudication of disputes between the petitioner and the respondents
on the interpretation and implementation of the Power Purchase Agreement dated
30th May, 1996.**

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

Represented by : Learned Advocate Shri M.G. Ramachandran with Ms.
Shailja Vachhrajani and Shri S.S. Mistry

V/s.

Respondent : Essar Power Limited
Essar House, Mahalaxmi Road, Mumbai- 400034.

Represented by : Learned Advocate Shri Nisarg Desai

CORAM:

**Shri Anand Kumar, Chairman
Shri K. M. Shringarpure, Member
Shri P. J. Thakkar, Member**

Date: 04/01/2018.

DAILY ORDER

- 1) The matter was kept for hearing on 22.12.2017.
- 2) Learned Advocate Shri Nisarg Desai, on behalf of the Respondent Essar Power Limited (EPL), submitted that the Petitioner has filed its submission on

21.12.2017 i.e. just one day prior to hearing in response to the submission dated 15.09.2017 of the Respondent. He further requested that the Commission may allow three weeks' time to file rejoinder reply to the submissions of the Petitioner. He further submitted that Senior Counsel who is appearing for the Respondent in the present matter, is out of India owing to vacation in Gujarat High Court. Hence, the Commission may adjourn today's proceedings.

3) Learned Advocate Shri M.G. Ramachandran, on behalf of the Petitioner GUVNL, submitted that as far as para 5 (a), (c), (d) and (e) of daily order dated 05.10.2017 is concerned, the Petitioner has already filed the computations on affidavit on 13.02.2017 before the Commission but the Respondent has not filed any submissions on the said computation till 15.09.2017. Further, as far as the details with regard to para 5 (b) is concerned, it has already been decided by the Commission in other proceedings and the Commission passed order on it and the same order is challenged before the Hon'ble Appellate Tribunal for Electricity (APTEL). The Hon'ble APTEL has stayed the Commission's said order. The Hon'ble APTEL also directed GUVNL to pay Rs. 100 Crores to EPL subject to submission of a Bank Guarantee of Rs. 100 Crores by EPL. The Respondent has also not provided any submission in this regard. Further, he submitted various judgements in support of Delayed Payment Charges during today's proceedings. He further submitted that he has no objection to the adjournment sought by the Respondent EPL.

4) We have considered the submissions made by both the parties. We note that the Respondent has requested for adjournment on the ground as mentioned in para 1 above. We note that the Respondent Essar Power Limited has not filed any details pursuant to the directions given in daily order dated 05.10.2017 and also on the computations and submissions of the Petitioner which was filed on 13.02.2017 by the Petitioner. We also note that the Petitioner has submitted that the details with regard to query raised in para 5 (a), (c), (d) and (e) of the daily order dated 05.10.2017 passed by the Commission has already been complied with by GUVNL, while the issue raised in para 5 (b) was decided by the Commission against which

Appeal No. 02 of 2015 is pending before the Hon'ble APTEL. However, we have not received any submission on the above issue from the Respondent. We therefore direct the Respondent to provide the same alongwith rejoinder reply and computations within 3 weeks from today's proceedings with a copy to the Petitioner. We also direct the Petitioner to file their reply on the submissions of the Respondent within 7 days from the date of receipt of the submissions from the Respondent. We note that the present matter is delayed for one or the other reasons. Now, the Petitioner and the Respondent have agreed to keep the matter for final hearing on 20.01.2018. We, therefore, post the matter to 20.01.2018, with a clear direction that on that day, the matter shall proceed and no further accommodation or adjournment shall be granted under any circumstances. In case of absence of any party, the matter will be decided based on the documents on record. As the Respondent sought adjournment and the Petitioner has no objection to the same, we adjourn the matter to give a last opportunity to both the parties.

5) We order accordingly.

6) The next hearing will be on 20.01.2018 at 11:30 A.M.

Sd/-
[P. J. THAKKAR]
Member

Sd/-
[K. M. SHRINGARPURE]
Member

Sd/-
[ANAND KUMAR]
Chairman

Place: Gandhinagar.
Date: 04/01/2018.