BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION

GANDHINAGAR

<u>Petition No. 972 of 2009</u>

<u>In the Matter of:</u>

<u>Petition for adjudication of disputes that have arisen between the petitioner and the respondents on the interpretation and implementation of the Power Purchase Agreement dated 30th May, 1996.</u>

Petitioner	:	Gujarat Urja Vikas Nigam Limited Sardar Patel Vidyut Bhavan, Race Course, Vadodara -390007.
Represented By	:	Learned Advocate Ranjitha Ramchandran with Ms. Shailaja Vachharajani and Shri S.S.Mistry

V/s.

Respondent	:	Essar Power Limited Essar House, P.O.Box No: 7975, Mahalaxmi Road, Mumbai – 400034.
Represented By	:	Learned Sr. Advocate Shri Saurabh Soparkar with Shri Keyur Gandhi and Nisarg Desai

<u>CORAM</u>:

Shri Anand Kumar, Chairman

Shri K. M. Shringarpure, Member

Shri P.J.Thakkar, Member

INTERIM ORDER

1. The matter was kept for hearing on 16.09.2017. At the outset the Commission informed that the claims made by both the parties to the petition have been examined and the Commission needs some additional details/ information which will be sought through daily order for today's hearing. The Commission further observed that there is a discrepancy in the amount shown as deduction made by the Petitioner in its claim and the claim submitted by the Respondent and sought clarification as to how there can be any difference in the deduction made by the Petitioner in the claims lodged by both the parties.

2. Senior Advocate Shri Saurabh Soparkar, on behalf of the Respondent, Essar Power Ltd. stated that they have filed written submission under six major heads clarifying computations, which need to be considered by the Commission prior to deciding the issue. He further submitted that it is an accounting of the amount by the parties with respect to amount deducted by the Petitioner and hence there cannot be any difference in the amount recovered by the Petitioner and deduction shown in the Respondent's calculation sheet. However, the total amount would vary on account of interpretation of the Supreme Court Judgement in Civil Appeal No. 3455 of 2010. He further submitted that with the filing of the Respondent's submission on 15.09.2017, he has responded to the submissions made by the Petitioner in respect of the recoveries worked out by it for approval of the Commission. He suggested that the Commission may examine the same and still if any information gap is there, the Commission may frame the questions and seek specific details from both the parties.

3. Learned Advocate Ranjitha Ramchandran on behalf of the petitioner submitted that the submission of the Respondent is received just one day before the date of hearing, hence the Commission may grant time to file a reply to the

submissions made by the Respondent.

She further submitted that the dues are pending since long time and hence the Commission may decide the same as early as possible.

She also submitted that if there is any ambiguity in the calculation or if any clarification is required by the Commission, the parties would be willing to sit with the staff of the Commission and clarify the same so that the matter is concluded at the earliest.

4. We have heard the Petitioner and the Respondent. We note that the Respondent has filed its submission on 15.09.2017 and disputed the claim of the Petitioner on various grounds. The Petitioner has sought time to file its reply to aforesaid submissions of the Respondent.

   4.1 As the Petitioner has sought some time to file its reply on the submissions of the Respondent and that the Respondent has no objection, we decide to grant adjournment and direct the Petitioner to file its reply within 15 days from the date of receipt of this order, with a copy to the Respondent.

5. In order to finalise the computation, it is necessary to get some additional information along with the supporting documents from both the parties in respect of the following-

   a. When did/ from which date Essar Power Limited start submitting declaration with respect to availability of the entire generating station (515 MW) in terms of Schedule VI of the PPA?

   b. Details of invoices received from Essar Power Limited and actual payment made by GUVNL (erstwhile GEB), details of deductions made, if any along with reasons for such deduction.

   c. What is the mechanism to be followed for levy of Delayed Payment Charges for non- payment by the Seller if it is not defined in the PPA?

d. Computation of Delayed Payment Charges.

e. Details of Deemed Generation mechanism as per PPA and amount paid by GUVNL to Essar Power Limited with respect to various terms of PPA.

6. We order accordingly.

7. The next date of hearing will be intimated separately.

Sd/-	**Sd/-**	**Sd/-**
[P. J. THAKKAR]	**[K. M. SHRINGARPURE]**	**[ANAND KUMAR]**
MEMBER	**MEMBER**	**CHAIRMAN**

Date: 05/10/2017.