BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT AHMEDABAD

PETITION NO. 1021 OF 2010

In the matter of:

Rectification Petition under section 94 of the Electricity Act,2003 read with Regulations 80, 81, 82 and 83 of the Gujarat Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 seeking clarifications/ rectifications of the Order dated 31st March,2010 in Case No.1001/2010 on clarificatory petition seeking clarification/ rectification of the Commission order dated 9th December,2009 in Case No.966/2009.

Petitioner : Torrent Power Limited (TPL)
Torrent House, Ashram Road,
Ahmedabad.

Coram :

Dr P.K. Mishra, Chairman
Shri Pravinbhai Patel, Member (Tech)
Dr.M.K.Iyer, Member(Fin)

ORAL ORDER

1. The matter was kept for hearing on 12.10.2010. When the matter was called out, Shri Samir Shah along with Shri Chetan Bundela were present on behalf of the petitioner.

2. Shri Samir Shah, on behalf of the petitioner, submitted that the present petition is filed under Section 94 of the Electricity Act,2003 read with Regulations 80, 81, 82 and 83 of the Conduct of Business Regulations,2004 notified by the Commission. He submitted that the petitioner had filed a clarificatory petition No. 1001/2010 seeking clarifications/recifications of the Hon'ble Commission's order dated 9th December 2009 in petition No. 966/2009. This petition was disposed of by the Hon'ble Commission vide its order dated 31st

March, 2010. The petitioner has now prayed for rectification the order dated 31st March, 2010 on the following issues.

(i) Rectification by allowing the entire losses on account of wheeled energy.

(ii) Rectification by considering the power purchase rate of GUVNL for computing gains due to improvement in distribution loss.

2.1 He submitted that there were some errors in the order dated 31st March, 2010 passed by the Commission in clarificatory Petition No.1001/2010 in petition No 966 of 2009, which will affect the petitioner in their Annual Revenue Requirement. Therefore, the petitioner desires to get rectified the order of the Commission to that extent.

2.2 He submitted that as per section 94(1) (f) of the Electricity Act, 2003, the Commission is empowered to review the order passed by the Commission. Regulation 80, 81 and 82 of the Conduct of Business Regulations provide inherent power to the Commission to make such order which is necessary for end of justice. Regulations 83 of the Conduct of Business Regulations provides power to the Commission to rectify any defect or error in any proceedings before it. Thus, the Commission has power to clarify and rectify the defects of the order passed by the Commission in Petition No.988/2009. The petitioner wants review of the order passed by the Commission and accordingly ready to make necessary changes in it. The present petition may be treated as a review petition.

3 The Commission has received a letter from Shri Amarsinh Chavda, stating that he came to know about the present petition through the Commission's website. He was one of the objectors of the said tariff petition, and as such requests the Commission that all objectors should be allowed to join the hearing of the said petition.

4 We have carefully considered the submissions made by the petitioner. The petitioner has filed the present petition under Section 94 of the Electricity Act, 2003 and during the hearing, he relied on section 94(1)(f) which reads as under:

> ***94. Powers of Appropriate Commission*** *– (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure,1908 (5 of 1908) in respect of the following matters, namely:-*
>
> ……..
>
> *(f) reviewing its decisions, directions and orders;*
>
> ……..
>
> The above section does not contemplate clarification and rectification of the order.

4.1 Regulations 80, 81 and 82 of the Conduct of Business Regulations are pertaining to inherent powers of the Commission to make such order as necessary for end of justice. Regulation 83 of the Conduct of Business Regulations provides power to the Commission to rectify any defect or error in any proceedings before it, which pertains to the proceedings which is going on. Once any proceeding in any case/ petition is completed, final orders and directions are issued by the Commission as per Regulation 79 of the Conduct of Business

Regulations. Once a final order is issued by the Commission, the petitioner is eligible to file review petition under Section 94 of the Electricity Act, 2003 read with Regulation 72 of the Conduct of Business Regulations or the same can be challenged under section 111 of Electricity Act, 2003 before the Hon'ble Appellate Tribunal. Thus, the petition filed by the petitioner does not state the relevant section and regulations of the Act and Regulations to qualify as a review petition.

4.2 However, the petitioner has, during the hearing, submitted that there is some error on the face of record and they want some clarification which was not dealt with by the Commission in its order. Hence, they want review of the order passed by the Commission dated 31st March, 2010 to get justice.

4.3 The petitioner has brought out some errors in the Commission's order dated 31st March 2010 as stated in para 2 above, and requested to treat the present petition as a review petition. Hence, we decide to admit the petition, as a review petition.

4.4 We also observe that while hearing of the petition No.966/2009, a public notice was issued by the petitioner and some of the objectors had raised objection to the tariff petition filed by the petitioner. The present petition is for review of the clarificatory petition on the tariff petition. As such, the Commission is of the opinion that in the interest of justice, all the objectors in the original petition no. 966/2009 should also be given a chance of being heard. We, therefore, direct the petitioner that they should amend the petition to that extent and make

the objectors in the petition no. 966 of 2009 as party to the present petition.

4.5 We also observe that the petitioner has filed the petition in the general category under serial no.24 under Fees, Fines and Charges Regulations notified by the Commission and paid fee of Rs.10,000/-. Now, the petitioner desires a review of the tariff order passed by the Commission. They have to pay fee as per Serial No.17 of Fees, Fines and Charges Regulations which is 10% of the fees paid at the time of original application for determination of tariff. We, therefore, direct the petitioner to pay necessary fee in this respect within 10 days from the date of receipt of this order.

5. We order accordingly.

6. The next date of hearing will be intimated in due course of time.

Sd/-	Sd/-	Sd/-
[**Dr. P.K. MISHRA**]	**[PRAVINBHAI PATEL]**	**[Dr.M.K.IYER]**
Chairman	**Member (Tech)**	**Member (Fin)**

Place: Ahmedabad
Dated: 22/10/2010