

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1998 of 2021.

In the matter of:

Petition seeking extension of Scheduled Commercial Operation Date (SCOD) on (i) account of Force Majeure Events and (ii) delays solely attributable to Gujarat Energy Transmission Corporation and consequential reliefs under Section 86(1)(f) of the Electricity Act, 2003 read with Article 10.4 of Power Purchase Agreement executed between Goodwatts WTE Jamnagar Pvt Limited and GUVNL.

Petitioner : Goodwatts WTE Jamnagar Pvt. Limited
Represented by : Ld. Sr. Advocate Mr. Mihir Thakore alongwith
Advocates Mr. Saunak Rajguru, Mr. Tabish Samdani
and Ms. Manisha Narsinghani

V/s.

Respondent No. 1 : Gujarat Urja Vikas Nigam Limited

Represented by : Ms. Girija Dave

Respondent No. 2 : Jamnagar Municipal Corporation

Represented by : Nobody was present.

Respondent No. 3 : Gujarat Energy Development Agency

Represented by : Mr. H.S. Silajia

Respondent No. 4 : Gujarat Energy Transmission Corporation Limited

Represented by : Mr. Vasant Patel

Respondent No. 5 : State Load Despatch Centre - Gujarat

Represented by : Mr. A. G. Rathod and Mr. S. P. Nayak

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 26/10/2021

DAILY ORDER

1. The matter was listed for hearing on 22.10.2021.
2. Ld. Sr. Adv. Mr. Mihir Thakore appearing on behalf of Petitioner submitted that the pleadings are almost complete in this matter although one reply is received just yesterday on 21.10.2021 from SLDC. However, pending filing of rejoinder-in-reply by the Petitioner in reply of GETCO and SLDC, the Petitioner is ready to proceed with the matter.
3. Ms. Girija Dave, on behalf of the Respondent GUVNL submitted that para-wise detailed reply is filed by GUVNL on 21.09.2021 in the present matter and the Petitioner has also filed its rejoinder reply on same. Moreover, the Petitioner has thereafter filed additional submissions which needs to be examined by Respondent GUVNL for which some time is required with liberty to file further submissions, if required. It is further submitted that Respondents GETCO and SLDC have also filed their reply in the matter to which the Petitioner is yet to file its rejoinder reply. It is further submitted that the counsel of GUVNL is unable to remain present for today's hearing due to some personal difficulty and accordingly, discussed with counsel of the Petitioner for accommodating by way of adjournment. However, the Petitioner may proceed with arguments in the matter and GUVNL may be heard by the Commission on next date of hearing or the Commission may adjourn the matter.
 - 3.1. Moreover, in case the matter is adjourned today, the next date of hearing as may be decided by the Commission may be kept as virtual hearing which is also agreed by the counsel of the Petitioner.
4. Ld. Sr. Adv. Mr. Mihir Thakore submitted that although counsel of GUVNL had telephonically informed to Petitioner's counsel regarding difficulty in attending today's hearing but adjournment sought by the Respondent GUVNL may not be allowed.
 - 4.1. In response to the query of the Commission regarding the current status of the Petitioner's project, it is submitted that due to heavy rainfall and floods recently, the project site was affected and plant premises were flooded causing substantial damage within plant premises and to the equipment. Accordingly, the commissioning activity got derailed resulting in further delay in commissioning of the plant by the Petitioner. However, now plant is in final stages of completion and is likely to be commissioned within a weeks' time.

- 4.2. It is further argued that adjournment sought by the Respondent GUVNL is only being opposed on account of urgency on part of the Petitioner regarding decision in the matter. Therefore, the Commission may allow the Petitioner to proceed with the matter and keep another date for arguments of the Respondents as agreed by the representative of GUVNL.
- 4.3. In case the matter is being adjourned, the Commission may direct GUVNL to file its submission, if any, on or before 26.10.2021 with a copy to the Petitioner and also allow weeks' time to the Petitioner to file its rejoinder reply to the reply of the Respondent GETCO and SLDC. Moreover, it is also requested that till next hearing the decision regarding no coercive action by Respondent GUVNL may be continued.
5. We note that according to the Petitioner pleadings are almost complete in the present matter although copy of reply filed by Respondent SLDC is received by the Petitioner only on 21.10.2021. However, pending filing of rejoinder-in-reply to replies filed by Respondents GETCO and SLDC, it is requested by the Petitioner to proceed with the matter.
- 5.1. We also note that Respondent GUVNL has filed para-wise detailed reply to which Petitioner has also filed its rejoinder reply. Thereafter, the Petitioner has filed additional submissions which needs to be examined by Respondent GUVNL for which time is sought with liberty to file further submissions, if required. Further, Respondent GUVNL has submitted that their counsel is unable to remain present for hearing due to some personal difficulty and had accordingly, discussed with counsel of the Petitioner for accommodating by way of adjournment, which is not agreed by the Ld. Senior counsel for the Petitioner on ground of urgency in the matter.
- 5.2. We note that counsel on behalf of contesting Respondent GUVNL is not present due to some personal difficulty and Ld. Senior counsel for the Petitioner is desirous to proceed with the matter by keeping another date for arguments of the Respondents. Since, assistance of legal counsel being not available to GUVNL it will not be fit and proper to proceed with the matter. Considering the request made by GUVNL that the next date of hearing as may be decided by the Commission be kept as virtual hearing which is also agreed by the counsel of the Petitioner. Under these circumstances and in the interest of justice we decide to keep next hearing on a very short date.
- 5.3. We direct the Respondent GUVNL to file its submission, if any, on or before 26.10.2021 with a copy to the Petitioner. We also note that the Respondents GETCO and SLDC have filed their reply in the matter to which the rejoinder-in-reply is yet to be filed by the Petitioner. Accordingly, the Petitioner is directed to file its rejoinder reply, if any, to the reply of the Respondents GETCO and SLDC, within weeks' time with a copy to the Respondents.
6. We also note that Ld. Sr. Adv. Mr. Thakore appearing on behalf of Petitioner requested that till next hearing the decision regarding no coercive action by

Respondent GUVNL may be continued which is not objected by Respondent GUVNL, accordingly the same stand continued till next hearing.

7. At joint request of the parties, the next date of hearing is on 29.10.2021 at 11:30 A.M. through V.C. on Microsoft teams. Staff of the Commission is directed to provide necessary link to parties in these matters.
8. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 26/10/2021.

