

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 2143 of 2022.**

**In the Matter of:**

**Petition under Section 86(1) (f) of the Electricity Act, 2003 read with Article 10 of the PPA dated 30.04.2010 and amended PPA dated 07.08.2010 for adjudication of dispute between the Petitioner and the Respondent regarding Solar power generation at its fullest installed capacity of 11.5 MW as per the terms of the PPA by repairing solar power plant to achieve full potential utilization.**

**Along with**

**IA No. 16 of 2025 in Petition No. 2143 of 2022.**

**In the Matter of:**

**Application seeking interim directions in Petition No. 2143 of 2022.**

Petitioner : Kundan Solar (Astronfield) Pvt. Ltd.  
(Formerly Known as Astronfield (Gujarat) Pvt. Ltd.)  
Flat No. 4, 2<sup>nd</sup> Floor, 3-Scindia House,  
Connaught Place, New Delhi-110001.

Represented By : Ld. Sr. Adv. Mr. Saurabh Soparkar along with  
Adv. Mr. Shalin Jani & Adv. Ms. Aaksha Karia

V/s.

Respondent : Gujarat Urja Vikas Nigam Ltd.  
Sardar Patel Vidyut Bhavan,  
Race Course Circle,  
Vadodara – 390007, Gujarat.

Represented By : Ld. Adv. Mr. Aneesh Bajaj along with  
Mr. Kishor Lakhani

**CORAM:**  
**Mehul M. Gandhi, Member**  
**S. R. Pandey, Member**

**Date: 08/09/2025.**

**DAILY ORDER**

1. The present matter was kept for hearing on 19.08.2025.
2. Ld. Sr. Adv. Saurabh Soparkar appearing on behalf of the Petitioner submitted that during the final hearing of the captioned matter on 26.06.2025, Commission orally directed the Petitioner to place on record certain additional documents by way of an affidavit. As a result, the Petitioner filed Affidavit dated 21.07.2025. He further submitted that Commission passed Procedural/Daily order dated 29.07.2025, seeking for certain additional documents. Accordingly the Petitioner has filed Additional Affidavit on 13.08.2025 providing the details sought by the Commission in furtherance to the first Affidavit dated 21.07.2025.
  - 2.1. He submitted that in Para 5 of the daily order dated 29.07.2025, the Commission has raised query as to whether certain documents have been filed by the Petitioner or not?
  - 2.2. With regard to Information memorandum prepared by the Resolution professional containing relevant and vital information related to Petitioner company and to the prospective resolution Applications, he submitted that the Petitioner has provided the said document by way of Additional Affidavit dated 13.08.2025 which has been marked as Annexure – A1. He further submitted that the said document also

provide details regarding occurrence of the flood on two occasions which affected the operations of the company and resulted in huge drop in electricity generation thereafter.

2.3. In reference to Deed of confirmation for handing over physical possession by the Resolution professional to the Petitioner company, he submitted that no such Deed of Confirmation was executed or provided to the Petitioner by the Resolution Professional and, therefore, the Petitioner is not in possession of the same. He further submitted that the Petitioner was handed over the solar Plant on 03.02.2022 pursuant to the approval of the Resolution plan by the Hon'ble NCLT vide order dated 03.01.2022. In furtherance of the aforesaid approval of NCLT, the resolution professional duly transferred physical possession and control of the solar plant along with all associated assets, infrastructure, books and records, statutory approvals, and operational facilities to the Petitioner. He submitted that the Petitioner has submitted Final Progress Report submitted by the Resolution Professional to the Hon'ble NCLT confirming the handing over of the plant in accordance with the approved Resolution plan.

2.4. With regard to Resolution Plan proposal invited from the bidder by the Resolution professional, he submitted that the said document is submitted with Additional Affidavit and has been marked as Annexure C-1.

2.5. In reference to the Bid/Resolution plan submitted by the Petitioner against such proposal of Resolution professional by the Petitioner, he submitted that the

Petitioner submitted Resolution plan in response to the invitation issued by the Resolution Professional. The said Resolution Plan dated 12.11.2019 is submitted by the Petitioner with Affidavit dated 21.07.2025 which is marked as Annexure-B. He further submitted that during July 2015, due to heavy rainfall the plant was shut down for 2 months and severe damage was occurred to the plant. Further due to flood during 2017, damage to the plant was occurred to a great extent and it was operated only at 10-15% of its capacity.

- 2.6. With regard to Decision of Committee of Creditors on the Recommendation of Resolution professional and Bidder bids, he submitted that the Minutes of meeting of Committee of Creditors are not available and are not in the public domain.
- 2.7. With regard to Orders of NCLT, he submitted that the Hon'ble NCLT order dated 03.01.2022 is submitted by the Petitioner with Affidavit dated 21.07.2025 and is marked as Annexure-C. He further submitted that the said Hon'ble NCLT order has attained finality. Further NCLT order dated 15.10.2019 has been submitted with the rejoinder dated 09.11.2022 and has been marked as Annexure P-5.
- 2.8. With regard to contour report of the project site depicting water logging areas, natural flow of rain water, levelling of site by land filling with consideration and arrangement made to avoid any water logging while preparing /levelling the site for setting up the project carried out by the Petitioner before installation and commissioning of the plant, he submitted that the Solar plant was originally installed and commissioned in the year 2011, with the Commercial Operation Date

as 11.12.2012. The Petitioner acquired ASGPL through the CIRP, the Resolution plan for which was duly approved by the NCLT vide its order dated 03.01.2022. The Petitioner did not have ownership, possession or operational control of the plant at the time of its original installation and commissioning in 2011 and, therefore, does not possess any contour report prepared to such installation and commissioning in 2011. He further submitted that the Petitioner has prepared a contour Report on 08.08.2025 based on current site assessment, solely for the purpose of assisting the Commission in obtaining a comprehensive and updated factual record of the project site, including measures undertaken to mitigate water logging and flood related risks. The Contour Report dated 08.08.2025 is submitted by the Petitioner with Additional Affidavit dated 13.08.2025 which is marked as Annexure D1.

2.9. With regard to Technical specification sheet/ data of the Modules/ inverter as per manufacturer, he submitted that the details and specifications of the solar modules originally installed in 2011 is submitted by the Petitioner with Affidavit dated 21.07.2025 which is marked as Annexure A. He submitted that originally total 97,440 solar modules were installed aggregating to an installed capacity of approximately 11.5 MW at the solar plant. The said solar modules were having lower capacity ranging between 120 Wp to 130 Wp. He further submitted that pursuant to the interim order dated 19.01.2023 passed by the Commission, the Petitioner undertook the replacement of all originally installed solar modules at the plant. In total 33,147 new modules with higher capacity i.e., 335Wp, 325Wp, were installed resulting in an aggregate installed capacity of approximately 11.10

MW, ensuring that the solar plant's CUF remains within the permissible limits under the PPA and the applicable Tariff Order. The details and specification of the new solar modules installed in 2023 is submitted with Affidavit dated 21.07.2025 which is marked as Annexure- D.

3. Ld. Adv. Mr. Aneesh Bajaj appearing on behalf of the Respondent GUVNL submitted that they have filed reply to the Affidavit dated 21.07.2025 filed by the Petitioner, prior to the daily order dated 29.07.2025 passed by this Commission. Subsequently on 13.08.2025 the Petitioner has filed Additional Affidavit for which he crave leave to file reply for the said Additional Affidavit. He further submitted that the Petitioner has failed to provide contour report of the project site depicting water-logging areas, natural flow of rainwater, site levelling undertaken through land filling, and the arrangements made to avoid any water logging while preparing/levelling the site for setting up the project, carried out by the Petitioner before installation and commissioning of the plant.
  - 3.1. He submitted that the Petitioner has referred to the floods in July 2015 but has failed to provide the notice of force majeure for such alleged flood. The Petitioner has not provided any evidence of the letter being sent. He further submitted that the Petitioner has written letter to banker and not the Respondent. Further the letter is undated, unsigned and without any supporting documents/ photographs. Further the letter dated 10.09.2015 claimed to be hand delivered has no receipt from Respondent.

- 3.2. He submitted that the details of the old modules provided by the Petitioner and claimed to be replaced by the new modules are not in consonance with the details of the modules provided in the GEDA Commissioning certificate dated 20.12.2012 and 28.12.2012.
- 3.3. He submitted that as per the document dated 10.07.2025, the Petitioner has replaced 97400 solar modules as against the 91000 modules originally stated to be installed by the Petitioner, as certified by GEDA as per its certificates dated 20.12.2012 and 28.12.2012.
- 3.4. He further submitted that the Petitioner in its rejoinder dated 09.11.2022 intended to install the modules manufactured by Waaree Solar. This is contrary to the document dated 10.07.2025 which states that the PV solar modules are of the different make. He submitted that the Petitioner has failed to provide any GEDA certificate regarding the new installed modules.
- 3.5. The Petitioner has replaced not only defective/ damaged solar panels/ modules but all modules at a much lower capacity cost compared to the cost considered by this Commission while determining the tariff for the plant of the Petitioner. The replacement of the solar modules/panels by the Petitioner is contrary to the Interim Order of this Commission dated 19.01.2023.
- 3.6. He further submitted that as per the Resolution plan submitted by the Petitioner, the Petitioner intended to replace only 10% of the solar PV modules and had allocated only Rs. 1.96 Crores towards the purchase of new modules. Contrary to

the same, the Petitioner has replaced all modules and set up an entirely new plant. The Petitioner has acted contrary to the Resolution plan. The Petitioner was fully aware of the alleged damage to the plant at the time of submitting of the resolution plan and had therefore knowingly allocated only the above amount towards 10% of solar PV modules.

3.7. He submitted that the Petitioner is not entitled to payment of any tariff over and above the CUF as per the Tariff Order dated 27.01.2012 considering 18% CUF for the initial year and 1 % degradation annually. He further submitted that the contention of the Petitioner that the CUF is 18% does not take into account the degradation.

4. In response to the arguments of the Ld. Adv. of the Respondent, Ld. Adv. of the Petitioner submitted that to prepare or maintain a contour report is not a statutory obligation. Further, neither the interim order dated 19.01.2023 passed by the Commission nor any applicable provisions of law impose any obligation on the generating company to prepare or maintain a contour report in relation to the Solar plant. Further failure to prepare or maintain a contour report cannot lead to any consequence.

4.1. He submitted that the Petitioner is having PPA to generate 11.5 MW and there is no PPA in relation to number of modules, how the Petitioner generate is not related to the Respondent, GUVNL. The Petitioner must generate by solar panel up to 11.5

MW and supply to the Respondent. At present the capacity of the Petitioner plant is 11.1 MW. He further submitted that GEDA certificate is not required at this stage.

5. Heard the parties. We note that the present Petition has been filed by the Petitioner for adjudication of dispute between the Petitioner and the Respondent regarding Solar power generation at its fullest installed capacity of 11.5 MW as per the terms of the PPA by repairing solar power plant to achieve full potential utilization.
6. We have considered the submissions made by Ld. Sr. Advocate appearing on behalf of the Petitioner and Ld. Advocate appearing on behalf of the Respondent GUVNL at length. Both the parties have made their submissions and completed their arguments in the matter. Parties are directed to file their written submissions, if any, within 4 weeks' time. The matter is now reserved for Final Order.
7. Order accordingly.

**Sd/-**  
**[S. R. Pandey]**  
**Member**

**Sd/-**  
**[Mehul M. Gandhi]**  
**Member**

Place: Gandhinagar.

Date: 08/09/2025.