

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2144 of 2022.

In the Matter of:

Petition under Section 86(1)(f) of the Electricity Act, 2003 read with Article 8 of the Power Purchase Agreement dated 09.07.2020 seeking extension/deferment of Scheduled Commercial Operation Date on account of Force Majeure events beyond the reasonable control of the Petitioner (i.e., non-mutation of sale deeds executed by the Petitioner for the Project Site), and consequential reliefs therefor.

And

IA No. 24 of 2022 in Petition No. 2144 of 2022.

In the Matter of:

Application on behalf of the Petitioner seeking ad -interim ex-parte interim relief.

Petitioner/ Applicant : Vena Energy Clean Power Pvt. Ltd.
Represented By : Ld. Adv. Aniket Prasoon along with Adv. Ms. Pratiksha Chaturvedi.

V/s.

Respondent : Gujarat Urja Vikas Nigam Ltd.
Represented by : Ld. Adv. Utkarsh Singh along with Mr. Kamlesh Shah.

CORAM:

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

Date: 02/09/2025.

DAILY ORDER

1. The matter was kept for hearing on 25.08.2025.
2. Ld. Adv. Aniket Prasoon appearing on behalf of the Petitioner / Applicant has submitted that the Petitioner has filed the IA seeking adjournment in the matter. It is submitted that the Petitioner has filed Civil Application No. 02 of 2025 in SCA No. 8575 of 2022 on 20.08.2025 before the Hon. Gujarat High Court seeking the matter be fixed peremptorily for hearing at the earliest, preferably within the following week subject to convenience of the Hon. High Court. The Petitioner also filed CA No. 03 of 2025 in SCA No. 8575 of 2022 seeking impleadment of the Respondent and the Commission as parties to the said matters. The aforesaid applications for early hearing and impleadment application were heard by the Hon. High Court of Gujarat on 22.08.2025 and while disposing of the early hearing IA, the final hearing in the matter is kept on 18.09.2025. He referred the relevant portion of the Order of the Hon. High Court of Gujarat which reads as under: -

*“Civil Application for fixing date of hearing
C.A. No. 2 of 2025.*

Heard the learned counsels for the parties.

List the Special Civil Application for final hearing on 18.09.2025 at 4.00 PM

Order in Civil Application (for joining party) No. 3 of 2023

Issue Notice, returnable on 18.09.2025.

Direct service is permitted.

ORDER IN R/SPECIAL CIVIL APPLICATION NO. 8575 of 2022

The learned senior counsel Mr. R. R. Sanjanwala submits that the learned Gujarat Electricity Regulatory Commission is also seized of the case in respect of extension of Scheduled Commercial Operation Date. The learned senior counsel submits that the present Special Civil Application has direct bearing on the said proceedings. He submits that the petitioner to move an application

for adjournment before the learned Gujarat Electricity Regulatory Commission, which may be considered favorably.

Since this Court has fixed the case for final hearing on 18.09.2025, if any application for adjournment is made by the petitioner to the learned Gujarat Electricity Regulatory Commission, the same be considered positively, Direct service is permitted.

Referring the said Order dated 22.08.2025 of the Hon. High Court of Gujarat,

Ld. Adv. Mr. Aniket Prasoon submitted and requested the Commission to

keep the matter for hearing any day after 18.09.2025.

3. The Petitioner has filed the SCA No. 8575 of 2022 before the Hon. High Court of Gujarat seeking to quash and set aside the Order dated 21.03.2022 of Gujarat Revenue Tribunal GRT in Revision Application No. TENBA No. 173/2021 and Consequently to set aside the Order dated 18.03.2021 passed by the Mamlatdar in Case No. 70-B/1/2021 and Order dated 30.09.2021 passed by the Assistant Collector in case No. 02 of 2021 on the issue arising from the non-mutation of the registered sale deeds regarding the land. i.e., disputed land
4. Ld. Adv. Utkarsh Singh appearing on behalf of the Respondent submitted that it has no objection for adjournment until any nearest day after 18.09.2025 but has objected to *sine die* the matter, until final Judgement that may be passed by the Hon'ble High Court of Gujarat in the SCA No. 8575 of 2022. He further submitted that as there is no stay on encashment of Bank Guarantee hence the Bank Guarantee can be encashed.

5. Heard the parties.

6. We note that the Petitioner has filed the SCA No. 8575 of 2022 before the Hon. High Court of Gujarat seeking to quash and set aside the Order dated 21.03.2022 of Gujarat Revenue Tribunal GRT in Revision Application No. TENBA No. 173/2021 and Consequently to set aside the Order dated 18.03.2021 passed by the Mamlatdar in Case No. 70-B/1/2021 and Order dated 30.09.2021 passed by the Assistant Collector in case No. 02 of 2021 on the issue arising from the non-mutation of the registered sale deeds. We also note that the present Petition is filed before the Commission for the purpose of seeking extension/ deferment of Scheduled Commercial Operation Date on account of Force Majeure events beyond the reasonable control of the Petitioner (i.e., non-mutation of sale deeds of parcel of land executed by the Petitioner for the Project Site, which is the subject matter in the present Petition), and consequential reliefs which include non-levy of liquidated damages thereof. The same is reproduce below:

“ ...

i) Allow the Petition and declare that the inability of the Petitioner to obtain mutation of the Registered Sale Deeds bearing no. 661, 663, 664 and 665 of 2020 dated 19.10.2020 and 21.10.2020 on account of denial by the Ld. Deputy Mamlatdar vide its order dated 02.12.2020 and continuation of the same by way of orders of the other relevant authorities is a Force Majeure event under

Article 8.1(a) of the Power Purchase Agreement dated 09.07.2020 being beyond the reasonable control of the Petitioner;

(ii) Grant an extension in the Scheduled Commercial Operation Date of the Project from 25.03.2022 without any adverse consequences (including invocation of the Petitioner's Performance Bank Guarantee), for the period corresponding to the period of the Force Majeure event preventing/delaying/hindering the Petitioner from commissioning the Project.

(iii) Restrain the Respondent, i.e., Gujarat Urja Vikas Nigam Limited, from taking any coercive action against the Petitioner on account of non-commissioning of the Project by 25.03.2022 or even 25.09.2022; and

(iv) Hold and declare that the Petitioner is not liable to pay any Liquidated Damages in terms of Article 3.3 of the Power Purchase Agreement dated 09.07.2020 for the duration of the period during which the Petitioner has been affected by the Force Majeure event in terms of prayer (i) above.

(v) Grant ad-interim ex-parte relief restraining the Respondent from invoking/encashing the Petitioner's Performance Bank Guarantee bearing no. FBG100702000100 dated 09.07.2020 (as extended on 03.09.2021) and/or terminating the Power Purchase Agreement dated 09.07.2020, till the final disposal of the present Petition; and

(vi) Pass such other or further order(s) as this Commission may deem just and proper in favour of the Petitioner in the facts and circumstances of the present case.

....”

The above prayers before the Commission are under the provision of Electricity Act, 2003 read with regulations of the Commission and dispute in relation to power purchase agreements executed (Contract) between the Petitioner and the Respondent.

7. We note that the Petitioner has filed the IA for seeking adjournment of today's hearing in view of the Order dated 22.08.2025 passed by the Hon. High Court of Gujarat in SCA No. 8575 of 2022. We also note that in the Order dated 22.08.2025 Hon. High Court has recorded in the aforesaid Order as under "Since this court has fixed the case for final hearing on 18.09.2025, if any application for adjournment is made by the Petitioner to the learned GERC, the same be considered positively."
8. Hence, considering the said Order of Hon. High Court of Gujarat, we decide to adjourn the matter
9. The next date of hearing will be intimated separately.
10. We Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 02/09/2025.