

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2375 of 2024.

In the Matter of:

Petition under Section 86 of the Electricity Act, 2003 seeking clarification qua the procedure for Grant of Connectivity to projects based on Renewable Energy Sources to Intra-State Transmission System and refund of Bank Guarantee amounting to Rs. 2.5 Crores towards grant of Stage-II Connectivity at 220 kV/66kV Gondal Sub-Station.

Petitioner : Suzlon Global Service Limited
'Suzlon', 5, Shrimali Society
Near Shri Krishna Complex, Navrangpura
Ahmedabad-380009.

Represented By : Ld. Adv. Mr. Mridul Chakravarty along with
Adv. Ms. Lavanya Panwar

V/s.

Respondent : Gujarat Energy Transmission Corp. Limited
Sardar Patel Vidyut Bhavan
Race Course Circle, Vadodara – 390007.

Represented By : Ld. Adv. Ms. Srishti Khindaria along with
Mr. Shobhraj Jayswal

CORAM:

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

Date: 15/09/2025.

DAILY ORDER

1. The present matter was kept for hearing on 29.08.2025.
2. Ld. Adv. Mr. Mridul Chakravarty appearing on behalf of the Petitioner made submissions traversing through various documents and argued the matter at length referring to factual aspects and relevant Judgements. Further, he submitted that Rejoinder is submitted on 26.08.2025 and the pleadings in the present matter are completed.
 - 2.1. He submitted that the present Petition is most fervently filed before the Commission in the most emergent of circumstances by the Petitioner beseeching it to (a) to issue requisite clarification(s) *qua* the Procedure for Grant of Connectivity to projects based on Renewable Energy Sources to the Intra-State Transmission System issued by GETCO in exercise of Regulation 20 of GERC (Terms and conditions of Intra State Open Access) Regulations, 2011, approved by the Commission on 07.01.2023 to the effect that where the Petitioner is faced with an unprecedented situation as elucidated *qua* construction and execution of its 50 MW Wind Power Project, it would be the necessary implication of law that the Petitioner would absolved of any liability, financial or otherwise, which may arise against it. (b) to direct the Respondent to return/refund the Bank Guarantee dated 16.06.2023 for an amount of Rs. 2.5 Crores and Supervision Charges of Rs. 5,84,382/- furnished by the Petitioner. (c) to grant protection to the Petitioner *qua* invocation and encashment of the Bank Guarantee dated 16.06.2023 for an amount of Rs. 2.5 crores during the pendency of the present Petition.
 - 2.2. He submitted that the Petitioner being desirous of evacuating 50 MW of Wind Energy for captive use applied for Stage-I connectivity for its

project on 03.04.2023 before the Respondent which application was approved on 29.05.2023 by the Respondent.

- 2.3. He submitted that the Petitioner made an application for Stage-II connectivity on 17.06.2023. The Respondent granted the Stage-II connectivity to the Petitioner's project on 28.07.2023 for 50 MW at 220 kV /66kV Gondal Sub-station.
- 2.4. He submitted that the Respondent vide communication dated 19.08.2023 mandated the Petitioner to pay the provisional estimate of supervision charges for carrying out the work of erection the requisite transmission network for evacuation of 50 MW of Wind Energy at the 220 kV/66kV Gondal Sub-Station of the Respondent GETCO from the WPP of the Petitioner for captive use under Option-III.
- 2.5. It is submitted that on 05.09.2023 the Petitioner made payment of Rs. 5,84,382/- vide Demand Draft No. 322070 drawn at the State Bank of India in favour of the Respondent. Further, the Petitioner also provided a Bank Guarantee dated 16.06.2023 for an amount of Rs. 2.5 Crores in favour of the Respondent / GETCO with an expiry date of 20.12.2024 and a claim expiry date up to 20.12.2025. It is further submitted that on 13.09.2023 the Petitioner and the Respondent executed a connectivity agreement.
- 2.6. He submitted that after having made considerable headway in its work(s), the Petitioner got knowledge of the fact that the NIWE in consultation with the MoD has notified a map on its website, whereunder certain areas in the State of Gujarat were declared as "NO WTG" Zone. The Wind Power Plant of the Petitioner was to be setup

in village Jetpur which was also covered under the ambit of the above notification thereby being declared as “NO WTG” Zone.

- 2.7. He submitted that the Petitioner faced an unprecedented situation, which has hampered, jeopardized and stalled the Wind Power Project of the Petitioner. He submitted that the Petitioner was constrained to inform about the same to the Respondent vide letter dated 17.01.2024, while requesting for return of the BG and refund of the supervision charges. Furthermore, in the said letter, an alternative option was also suggested to allow the Petitioner to adjust the said amount i.e. BG and supervision charges in the new connectivity approvals, if possible, as the Petitioner expressed its willingness to develop other wind farm projects in the State of Gujarat.
- 2.8. He submitted that in such kind of situation where the project of the Petitioner cannot be set up due to a subsequent change and impossibility, Section 56 of the Contract Act, 1872 becomes applicable invoking the doctrine of frustration to come to the rescue of a person who is at the threshold of facing unwarranted consequences for no fault of its own and performing an act becomes impossible.
- 2.9. He further submitted that Notification issued by the National Institute of Wind Energy in consultation with Ministry of Defence earmarking certain areas as a “No WTG” Zone within the State of Gujarat. Further, the said notification provides Guidelines for issue of NOC for constructions around Indian Air Force aerodromes.
- 2.10. He further submitted that clause 9 of the said notification provides that, Colour Coded Zoning Maps (CCZMs) have been formulated for all IAF aerodromes and handed over to Local Municipal Authorities

(LMAs). Depending upon the colour coding in the specific area/zone, a large number of cases will be processed by LMAs only (without any need to forward application to Air Force Station), thus easing the procedures for approvals/clearances to Real Estate Projects only. However, local Air Force Stations will ensure that effective coordination is to be maintained with LMAs for obtaining details of cleared proposals.

- 2.11. He further submitted that Clause 9 (a) provides that the Maps are formulated based on Geo-referenced Grid of one minute by one minute (Latitude/Longitude) and cover an area of about 75km x 75km.
- 2.12. He further submitted that clause 10 states that No WTG shall be installed upto a distance of 10 Km in Line of Sight of the Radar Antenna of all Static Air Defence Radars and up to 8 km from VOR and Airport Surveillance Radar.
- 2.13. He further submitted that Clause 11 (a) provides for Red Zone, No WTG is permitted for sites falling in Red Zone.
- 2.14. He further submitted that the Commission in its judgement dated 04.07.2025 in Petition No. 2446 of 2025 has specifically observed that the advent of “NO WTG Zone” notified by MOD is an event falling within the ambit of “unforeseen reason” as envisaged under the connectivity procedure of the Commission. The consequent relief post mitigation has also been granted by this Commission suitably.
- 2.15. He submitted that the relevant map issued by National Institute of Wind Energy showing areas within the State of Gujarat as “No WTG Zone” including village Jetpur. He further submitted that certain areas

in the map are marked in colour red within which the site of the Petitioner's project is located which imply no construction areas. The Petitioner's project falls under the "No WTG Zone" wherein there is a prohibition on construction as indicated in the above map.

- 2.16. He further submitted that the Commission is possessed with wide regulatory powers under the framework of Electricity Act, 2003, particularly section 86. Such regulatory power being encapsulating in their ambit, warrant exercise within the four corners of law. Such power, its exercise, extent, ambit is judicially described in various orders passed by courts which elucidated the aspect of exercise of regulatory powers in appropriate cases with vision to grant relief.
3. Ld. Adv. Ms. Srishti Khindaria appearing on behalf of the Respondent GETCO, submitted that Detailed procedure provides for certain timelines which the Stage-II Connectivity Grantees have to Comply.
- 3.1. She submitted that clause 10.2 (A) of the detailed procedure provides that, Stage-II Connectivity grantees shall require to complete the dedicated transmission line(s) including require bays, bus-bar at transmission licensees substation and generator pooling sub-station(s) etc. within timeline specified by the State Commission in relevant Orders/ LOA/LOI/ PPA for projects, as applicable from time to time.
- 3.2. Further Clause 10.2 (B) provides that, if a grantee fails to complete the dedicated transmission line(s), including require bays, bus-bar at transmission licensees sub-station and/or generator pooling station(s) within the timeline stipulated under sub-Para Clause (A)

above, Stage-II Connectivity shall be revoked and BG shall be encashed.

- 3.3. Further Clause 10.2 (C) provides that the Stage-II grantee shall commission at least 10% of the allotted capacity within one month of charging of evacuation line, failing which; the Stage-II grantee shall be liable to pay long-term Transmission Charges for 10% of allotted capacity till such 10% of allotted capacity is commissioned. Balance 90% capacity shall be required to be commissioned within two years failing which STU shall cancel the capacity allotment to the extent of capacity not commissioned and the developer shall have no claim on such capacity. Further, STU shall include such cancelled capacity in the list of spare capacity for RE integration to be published on their website for prospective consumers or as per the State Commission's Order, if any.
- 3.4. She submitted that if the Grantee does not construct the dedicated transmission line as per the timelines, the Stage-II Connectivity shall be revoked and the Bank Guarantee encashed.
- 3.5. She submitted that the issue in the present Petition relates to the request of the Petitioner to seek withdrawal of Stage-II connectivity already granted to the Petitioner.
- 3.6. She submitted that the Petitioner has raised the issue of its inability to set up the Wind power project due to the alleged issue of declaration of "NO WTG" Zone in the area of Village Jetpur where the Petitioner intended to set up its Wind Power Project.
- 3.7. She submitted that the Petitioner has not pointed out any provision under the Detailed Procedure which allow for such situation. Further,

the Detailed procedure provides for cancellation of the Stage-II connectivity with encashment of Bank Guarantee and there is no provision for return of Bank Guarantee.

- 3.8. She submitted that with regard to the alleged issue of declaration of “NO WTG Zone”, no notification has been produced and the Petitioner has not even submitted what date the notification was published. She submitted that the Petitioner has to substantiate its claim that the notification, if any, was issued subsequently and further that the notification included the village Jetpur.
- 3.9. With regard to the judgement dated 04.07.2025 in Petition No. 2446 of 2025, she submitted that the facts of both the Petition are different. In the cited judgement, the Petitioner has sought for extension of time period for commission the entire evacuation infrastructure, wherein the Petitioner has sought “NO WTG” Zone notified by MOD as an event falling within the ambit of “unforeseen reason”. While in the present Petition the Petitioner has abandoned the project/ raised the issue of its inability to set up the Wind power project.
- 3.10. She submitted that the Commission in OPGS Power Gujarat Pvt. Ltd. Vs. Gujarat Energy Transmission Corporation limited in Petition No. 1301 of 2013 dated 21.10.2014, has taken a view in regard to transmission charges, that the reasons for delay cannot release the open access holder from payment of transmission charges. It has been held by the Commission that, “The Construction of power plant, commissioning of it and achieving the commercial operation of the power plant is independent from the construction of transmission system. The delay in commissioning of the power plant itself has no role to play in the present dispute.”

- 3.11. She further submitted that the transmission charges are always payable irrespective of the actual use of the transmission system as recognized by the Hon'ble Tribunal in Appeal No. 6 of 2015 and upheld by the Hon'ble Supreme Court vide Order dated 23.02.2018 in Civil Appeal No. 14062 of 2015. Further, the Open Access Regulations also recognise that the payment of relinquishment charges in case of non-utilisation of Open Access under Regulation 42 of the Open Access Regulations 2011. Thus in all such situations, the issue with power project cannot be a basis for denial of charges to GETCO.
- 3.12. She submitted that in the present case, the issue is of connectivity and not transmission charges. However, there is an issue of when the applicants obtain connectivity, block the capacity and then subsequently withdraws the same. The Petition on 17.01.2024 wrote to repudiate or relinquish the connectivity granted. While Respondent, GETCO, had considered capacity as available in order not to waste the capacity at the sub-station. The capacity has not been granted to anyone else. The consequences of the action of the Petitioner and appropriate action including the encashment of bank guarantee therefore have to be considered.
4. Heard the parties. We note that the present Petition has been filed by the Petitioner seeking clarification qua the procedure for Grant of Connectivity to projects based on Renewable Energy Sources to Intra-State Transmission System and refund of Bank Guarantee amounting to Rs. 2.5 Crores towards grant of Stage-II Connectivity at 220 kV/66kV Gondal Sub-Station. The Petitioner contended that it was not able to construct the project due to declaration of "NO WTG" Zone / No Go Zone area by Ministry of Defence. Hence, the Petitioner prayed

for refund of Bank Guarantee as it is beyond the control of Petitioner to construct and commission the project.

- 4.1. We note that the Petitioner has contended that the stage-II connectivity which was granted to the Petitioner desires to withdraw the Petition on a ground that Ministry of Defence has declared the area of Village Jetpur and surrounding to it where the Petitioner has intended to construct and commission the WTG project as “NO WTG” Zone, hence the Bank Guarantee which was paid by the Petitioner needs to refund due to reasons beyond the control of the Petitioner to construct and commission its WTG project. The Petitioner also stated that the MOD notification was not known to the Petitioner when the connectivity was applied by the Petitioner and granted by the Respondent.
- 4.2. We also note that the Respondent contended that the Petitioner has blocked the connectivity and not constructed the project. The Petitioner required to declare that under which notification MOD has declared the “NO WTG” Zone, if such notification is prior to connectivity obtained by the Petitioner then in that case the Petitioner is not eligible for any relief because the Petitioner was aware of such notification though applied for connectivity and granted by the Respondent and by way of that the Petitioner has blocked the connectivity which is not permissible. The Petitioner, if knowing the facts applied for connectivity and obtained it and not constructed the project, then the Bank Guarantee paid by it is not refundable. The Petitioner should make its submission specifying the date of MOD notification under which the said area where connectivity obtained by the Petitioner declared as “NO WTG” Zone. If such notification is prior

to date of connectivity obtained by the Petitioner in that case the Respondent shall be given an opportunity to make submission on it.

- 4.3. We note that the Petitioner and the Respondent sought time to file their written submissions in the present Petition. We direct the Petitioner to specify the MOD Notification under which the area where the Petitioner intended to set up WTG for its project of 50 MW declared as “NO WTG” Zone by MOD. We also note that the said notification is prior to connectivity obtained by the Petitioner in that case we grant liberty to file submission by the Respondent limited to it. Let Petitioner and Respondent to file their written submissions within 3 weeks’ time.
- 4.4. During the hearing of the Petition, the Respondent agreed to provide the details of the project under which either connectivity which was granted to the developers revoked or cancelled earlier due to any reason and Bank Guarantee was either encashed or not encashed by the Respondent with its written submission. We direct the Respondent to submit the same along with its written submission. The matter will be reserved for appropriate Order thereafter.
5. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 15/09/2025.