

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2433 of 2024.

In the Matter of:

Petition under Section 86 (1) (f) and Section 86 (1) (k) of the Electricity Act, 2003 read with Regulation 45 of the GERC (Terms and Conditions of Intrastate Open Access) Regulations, 2011 and Regulations 80 and 82 of the GERC (Conduct of Business) Regulations, 2004 inter alia seeking appropriate reliefs.

Petitioner : Project Twelve Renewables Power Pvt. Ltd.
S 2904, 29th Floor, World Trade Centre,
Brigade Gateway, Dr. Rajkumar Road,
Malleswaram, Rajajinagar, Bangalore-560055.

Represented By : Ld. Sr. Counsel Rashesh Sanjanwala
along with Adv. Mr. Nisarg M. Desai &
Adv. Nandita Surollia

V/s.

Respondent No. 1 : Gujarat Energy Transmission Corporation Ltd.
Sardar Patel Vidyut Bhavan
Race Course Circle, Vadodara – 390007.

Represented by : Ld. Adv. Ranjitha Ramachandran along with
Mr. Shobhraj Jayswal

Respondent No. 2 : Gujarat Urja Vikas Nigam Ltd.
Sardar Patel, Vidyut Bhawan,
Race course, Vadodara, Gujarat-390007

Represented By : Ld. Adv. Ranjitha Ramachandran along with
Mr. P. S Pareek

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

Date: 25/09/2025.

DAILY ORDER

1. The present matter was kept for hearing on 02.09.2025.
2. Ld. Sr. Counsel Rashesh Sanjanwala appearing on behalf of the Petitioner submitted that the Petitioner has filed total 3 Petitions before the Commission. He submitted that the Respondent, GETCO vide letter dated 31.05.2023 cancelled/revoked the Stage-II connectivity of the Petitioner citing the reason that the Petitioner had not complied with the timeline stipulated in Clause 9.7 of the Detailed procedure for submission of the signed connection agreement. Aggrieved by the said letter/action of the Respondent, GETCO, the Petitioner filed Petition before the Commission bearing Petition No. 2221 of 2023 on 06.06.2023.
 - 2.1. He submitted that in October 2023, a list of substations was released and 340 MW capacity became available at the Charkha substation. The Petitioner applied for Stage-I and Stage-II Connectivity at Charkha Substation. Further on 03.10.2023 the Petitioner submitted physical application to GETCO for both the Stage-I and Stage-II connectivity along with the physical copy of the fresh bank guarantee bearing No. 15410100024106 dated 30.09.2023 amounting to Rs. 7 Crore. The Respondent, GETCO, by way of two separate letters dated 30.11.2023 granted Stage-I and Stage-II connectivity at the Charkha substation to the Petitioner.

- 2.2. He submitted that the Petitioner has filed a fresh Petition on 12.12.2023, bearing Petition No. 2314 of 2023 before the Commission, inter alia seeking an extension of the timeline for achieving SCOD for the project on account of the force majeure event that delayed the Petitioner from fulfilling its obligations under the PPA. The said Petition is pending before the Commission for the determination that, whether the Petitioner is entitled for the extension of the timeline for achieving SCOD for the project on account of the force majeure event or not?
- 2.3. He further submitted that on 15.12.2023 the Petitioner filed an affidavit seeking leave to withdraw Petition No. 2221 of 2023 before the Commission. The Commission by way of the order dated 27.05.2024 disposed of the Petition No. 2221 of 2023 following the Petitioner's withdrawal of the matter.
- 2.4. He submitted that the Petitioner has preferred the instant Petition beseeching for return of Original Bank Guarantee bearing No. PBGI009123000014 dated 20.01.2023 which was submitted to GETCO to secure the Stage-II connectivity that was initially granted to the Petitioner by GETCO through its letter dated 16.02.023. The said connectivity was subsequently revoked/ cancelled by GETCO, thereby necessitating the return of the original Bank Guarantee.
- 2.5. He submitted that the core issue involved in both the Petition (2314 of 2023 and 2433 of 2024) are common that is the arbitrary action of the Respondent, GETCO, of revocation / cancellation of the Stage-II connectivity of the Petitioner by its letter dated 31.05.2023 which was

initially granted to the Petitioner by GETCO through its letter dated 16.02.2023. Hence, requested to hear both the matter conjointly on the next date.

2.6. He submitted that the Respondent has retained the Original bank Guarantee, despite having already secured a subsequent bank Guarantee for the Current Stage-II connectivity granted to the Petitioner on 30.11.2023. The Original bank Guarantee was intended to secure obligations under the previously granted connectivity which has since been cancelled. He further submitted that there is no valid basis for GETCO to retain this Original bank Guarantee. Further by withholding the Original bank Guarantee, GETCO is positioned to gain an undue advantage, possessing two bank guarantees for the same project, while only one is relevant under the current circumstances. This retention is inequitable and contravenes established legal principles governing restitution and fairness. He further submitted that there is no legal or contractual foundation for GETCO to continue holding the Original Bank Guarantee till the expiry of the Original Bank Guarantee, particularly when the Petitioner has already submitted a new one.

2.7. He further submitted that the Detailed Procedure does not stipulate that the Original Bank Guarantee submitted by the Petitioner shall be retained by Respondent, GETCO. It only address the revocation and cancellation of the stage-II connectivity if the Petitioner fails to make payment or sign the agreement within the specified period. The GETCO has no right to retain the Original bank Guarantee under these circumstances. The action of the GETCO of holding the Original bank Guarantee is against the Provisions of the Detailed procedure.

2.8. He referred to the letter dated 22.02.2024 of the Respondent and submitted that the deposit of the estimate amount of Rs. 3,14,74,813/- for bay works was refunded by the GETCO upon withdrawal of the Petition 2221 of 2023. Therefore, when the deposit estimate submitted by the Petitioner has been refunded by the Respondent GETCO, there is no reason whatsoever for GETCO to retain the Original Bank Guarantee.

3. Ld. Adv. Ranjitha Ramachandran appearing on behalf of the Respondents, objected the request of joint hearing of the present matter and Petition No. 2314 of 2023 filed by the Petitioner. She submitted that the Petition No. 2314 of 2023 is already heard and reserved for Final Order. She further raised objection on the maintainability of the present Petition.

3.1. She submitted that, the Petitioner has filed the present Petition seeking return of the Bank Guarantee dated 20.01.2023 submitted by the Petitioner to the Respondent No. 1 GETCO in regard to the Stage-II connectivity granted vide letter dated 16.02.2023. The said connectivity stood automatically revoked in view of the failure on part of the Petitioner to complete the formalities as required in terms of the provisions of Clause 9.7 of the Detailed procedure dated 07.01.2023. She further submitted that the present relief is sought against the Respondent No. 1 GETCO.

3.2. She submitted that the Petitioner had filed the Petition No. 2221 of 2023 in regard to the cancellation of the Stage-II connectivity granted on 16.02.2023. She submitted that in the said Petition the Petitioner had prayed for condoning the inadvertent delay of 9 days on the part of

the Petitioner to submit the Connection Agreement to the Respondent in accordance with clause 9.7 of the Detailed Procedure. The Petitioner thereafter filed an Affidavit for seeking leave to withdraw the Petition No. 2221 of 2023. In the said affidavit the Petitioner raised the aspect of it being granted the connectivity in the subsequent application and while the Petitioner referred to the separate Petition filed on 13.12.2023 in relation to the extension of SCOD, it did not mention, let alone seek any liberty in respect of return of the Bank Guarantee in relation to the Stage-II Connectivity granted on 16.02.2023 which had been revoked by Operation of the Detailed procedure. The Commission vide order dated 27.05.2024 have allowed the Petitioner to withdraw the Petition and there was no liberty granted in terms of any further Petition.

- 3.3. She submitted that the Petitioner have withdrawn the Petition without any permission and is precluded from filing any fresh suit in respect of such subject matter in terms of Order XXIII Rule 1.
- 3.4. She further submitted that Order II Rule 2, the Petitioner is required to raise all aspects, the Petitioner ought to have raised all aspects related to cancellation of Stage-II connectivity dated 16.02.2023, particularly since the Petitioner had already sought alternate prayer in respect of its application dated 31.05.2023.
- 3.5. She submitted that it cannot be disputed that the Stage-II connectivity on 16.02.2023 stands revoked/cancelled in terms of Clause 9.7 of the Detailed Procedure. No issue on the validity of such cancellation has been raised or can be raised.

- 3.6. With regard to the reliance of the Petitioner on letter of GETCO dated 22.02.2024, she submitted that the said letter is regarding refund of estimate charges. She submitted that first provisional estimate is issued and then final estimate/final job bill is also issued. She submitted that in the present case GETCO has revoked the connectivity and as per GERC's Notification No. 9 of 2005 (Chapter VII, Regulation 7 (viii), which is applicable in case when after payment of deposit as aforesaid, if the applicant withdraws before starting the work, total amount after deducting 5% of amount of estimate or Rs. 5,000/- whichever is less, shall be refunded by the licensee to the applicant. Hence, the same is considered in final accounting of subject work i.e. Rs. 5000 is deducted and net amount of Rs. 3,14,74,812/- refunded to applicant.
- 3.7. She submitted that the Petitioner is seeking the return of bank guarantees. There is no specific provision in the Detailed Procedure dated 07.01.2023 in regard to the same.
- 3.8. She submitted that failure on part of the Grantee to fulfil the requirements of the Detailed Procedure dated 07.01.2023 leading to the cancellation of the Stage-II connectivity, the Commission may consider whether such power can be exercised or there should be some consequences for the grantee in such case. There is an issue of when the applicants obtain connectivity, block the capacity and then subsequently fail to fulfil the requirement as specified in the Detailed Procedure dated 07.01.2023.
- 3.9. She submitted that the bank guarantee was submitted by the Petitioner as per the application requirement and there is no provision for return

of Bank Guarantee in the Detailed Procedure. In absence of any provision for allowing grantees to withdraw the connectivity without any consequences and return the bank guarantee, the Commission has to consider the aspect of whether the prayer of the Petitioner can be granted.

4. Heard the parties. We note that the Petitioner has filed the present Petition beseeching Commission to direct the GETCO to forthwith return Bank guarantee dated 20.01.2023 submitted to GETCO towards the Stage-II connectivity earlier granted to the Petitioner by GETCO vide its letter dated 16.02.2023. We further note that the Petitioner has requested to keep the present matter along with the Petition No. 2314 of 2023 on next date for final argument as the core issue involved in both the Petition are common. We further note that the Respondent had objected the request made by the Petitioner for conjoint hearing of the present matter and Petition No. 2314 of 2023 filed by the Petitioner. She submitted that the Petition No. 2314 of 2023 is already heard and reserved for Final Order.
 - 4.1. The Petitioner and the Respondent Advocates have argued the matter to some extent and it remain part heard. On request of the Parties, the matter was adjourned.
5. The next date of hearing will be intimated separately.
6. Order accordingly.

Sd/-

[S. R. Pandey]
Member

Place: Gandhinagar.

Date: 25/09/2025.

Sd/-

[Mehul M. Gandhi]
Member