

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2461 of 2025

In the matter of:

Petition under Section 86 of the Electricity Act, 2003 read with Regulations 80 & 82 of the GERC (Conduct of Business) Regulations, 2004 read with Gujarat Renewable Energy Policy, 2023 & amendments thereof and the Tariff Order dated 31.08.2024 praying before the Commission to exercise its powers under Section 86 of the Electricity Act, 2003 and direct the Respondent, GETCO to grant extension of time for commissioning of the 3.948 MW AC Solar Power Plant project

Petitioner : Saanika Polytex Private Limited
B-405, International Trade Centre,
Majura Gate, Ring Road,
Surat – 395 006.

Represented By : Ld. Adv. Mr. M. N. Marfatia
V/s.

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

Represented By : Mr. Shobhraj Jayswal

Respondent No. 2 : Gujarat Urja Vikas Nigam Ltd.
Sardar Patel Vidyut Bhavan, Race Course Circle,
Vadodara – 390007, Gujarat.

Represented by. : Mr. K. N. Brahmabhatt along with Smt. M. N.
Gajjar.

Respondent No. 3 : Dakshin Gujarat Vij Company Ltd.
Urja Sadan, Nava Varachha Road,
Kapodara Char Rasta, Surat – 395 006.

Represented by. : Ld. Adv. Mr. Aneesh Bajaj along with Mr. B. K. Patel and Mr. Hetal Patel

CORAM:

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

Date: 16/09/2025

ORDER

1. The Petitioner has prayed as under:
 - (a) Admit and Allow the Petition;
 - (b) Exercise its Regulatory Powers under Section 86 of the Electricity Act and extend the time limit for commissioning of the Evacuation Line along with bays and metering system by a period of 6 months.
 - (c) Pass any such order and further reliefs as this Commission deems just and proper in the circumstances of the present case.
2. The facts mentioned in the Petition are as under:
 - 2.1. The Petitioner M/s Saanika Polytex Private Limited is a generating company as defined under Section 2(28) of the Electricity Act, 2003.
 - 2.2. Respondent No. 1, GETCO, is a company registered under the Companies Act, 1956. The primary function of Respondent No. 1 is to build, operate and maintain an efficient Power Transmission System in the State of Gujarat. The Respondent No. 1 *inter alia* granted the connectivity and various other approvals required for setting up of the Project.

- 2.3. Respondent No. 3, DGVCL, is a company registered under the Companies Act, 1956 and is one of the four electricity distribution companies of the State of Gujarat.
- 2.4. The Commission issued its Tariff Order No. 6 of 2024 dated 31.08.2024, on the tariff framework for procurement of power by Distribution Licensees and others from Solar Power Projects to be commissioned prospectively. The Control Period for which the Tariff Order would be applicable was defined and agreed as being up to 31.03.2027.
- 2.5. Pursuant to the Tariff Order, the Petitioner was developing a 3.948 MW AC Capacity, Solar Power Project under the Captive use category/open access. The Project was to be developed in terms and in accordance with the Renewable Energy Policy, 2023 of the State of Gujarat and the Tariff Order.
- 2.6. The Petitioner has applied for provisional GEDA approval for the ground mounted solar power plant project, on which the Respondent No. 2 provided the Petitioner with the provisional GEDA approval on 03.01.2024. The provisional GEDA approval is a mandatory requirement for the project's commissioning and commercial operation.
- 2.7. In response to application to get technical feasibility, the Respondent No. 1 granted grid connectivity and technical feasibility approval for the Petitioner's solar power project, vide letter dated 05.02.2024 having capacity of 3.948 MW.
- 2.8. Upon receipt of the Technical Feasibility Report (TFR), the Petitioner initiated the land acquisition process for setting up the solar power plant project. However, the land acquisition has caused some delays in the timely completion of the project. That initially the Petitioner had intended to set up the project by acquiring land on a long term lease basis, however owing to Land owner's internal dispute and later on change in their decision to sale

the Land rather than leasing it, the Petitioner decided to instead acquire the land at village - Selod, Survey No. 182 for setting up of the Project by way of an outright sale.

- 2.9. That, the land owner applied to the revenue authorities for seeking permission to use the land for non-agricultural purposes on 23.02.2024, however, the revenue authorities rejected the said application on 16.05.2024 on the ground that the report of the Department of Land Record had raised certain objections relating to the division of land due to the Canal that passed through the Land
- 2.10. That, thereafter substantial time was consumed in removing the objections raised by the land Revenue department and the work of DLR, on the partition of land through DLR as survey no. 182/A/1, 182/A/2 and 182 B the landowner once again applied for permission for non-agricultural use of the land on 28.09.2024 and the same was granted only on 19.12.2024.
- 2.11. That, thereafter vide 2 sale deeds for survey no. 182/A/1 and 182 A/2 the Petitioner purchased the land for the Project from the landowner on 18.1.2025. That, at the time of filing the present Petition, the land levelling of the project is complete and the fencing work has also been done. While, the Petitioner was undertaking the work towards completion of the land infrastructure, the looming regulatory uncertainty on account of various aspects created impediments for the Petitioner which has also resulted in inadvertent delay in the execution of the project. That the reassessment of the solar power plant project capacity due to revised banking regulations (capping banking at 30% of net consumption from DISCOM) has resulted in financial hardships for the Petitioner. These unforeseen circumstances resulted in inadvertent delays, which were beyond the Petitioner's control.
- 2.12. That, the Petitioner was constrained to undertake a comprehensive reassessment of the project capacity because of the issuance of Letter No. GUVNL/0079/08/2024, dated 31-08-2024, by the Government of India,

wherein clarifications were provided regarding the permissible capacity for banking purposes.

2.13. The, aforesaid letter stipulated that the banking facility shall be limited to an upper cap of 30% of the net consumption from the Distribution Company (DISCOM), thereby necessitating a thorough re-evaluation of the Petitioner's ground-mounted solar power plant capacity. That due to the said clarification, the Petitioner was compelled to temporarily suspend plant activities, as any revisions to the project capacity could have potentially led to far-reaching changes in the project's configuration, scope, and timeline.

2.14. That, the Petitioner had also initiated the work for getting NOC's from different government authorities with regards to laying the underground transmission line, namely Ministry of forest, R & B Department, MIPD Canal, which also took substantial time for approval and some of them are still under process, without which laying of the transmission line as per guidelines was not possible.

Summary of relevant submissions of the Petitioner

- i. The Petitioner submits that the delay caused in commissioning the evacuation line is inadvertent and beyond the control of the Petitioner.
- ii. That, acquisition of the land which took time due to reasons beyond the control of the Petitioner has resulted in the inadvertent delay in completion of the project.
- iii. The change in the financial banking policy by the Government also resulted in delays in completion of the project.
- iv. The time consumed for approval from the government authorities for laying transmission line.

2.15. It is submitted that as per the Tariff Order the Petitioner is required to complete transmission line/ evacuation system within one year from the date of receiving technical feasibility report and is further required to commission minimum 10% of capacity allocated to power producers, within one month from the date of charging the evacuation line of the project. It is submitted that the remaining capacity needs to be completed within one year from the charging of evacuation line. However, the Petitioner submits the Petitioner shall commission the total project within 6 months from the date the period is extended by the Commission.

2.16. That, the Petitioner itself has successfully commissioned a captive solar power project with a capacity of 3.98 MW AC in Vill. -Valia, Dist-Bharuch in Aug-2023. Also a sister concern of the Petitioner, namely Saanika Industries Pvt. Ltd. has also completed the commissioning of captive solar power project in a timely manner being project of 3.2 MW AC in Dist-Bharuch, Vil. -Valia.

2.17. It is submitted that the Respondent No. 3 has issued a notice to the Petitioner on 5.1.2025 asking to show cause why coercive steps should not be taken against the Petitioner and the Petitioner vide its response dated 12.2.2025 (sent on 14.5.2025) has responded to the said show cause notice.

2.18. It is submitted that as per the Tariff Order the Petitioner is required to complete transmission line/ evacuation system within one year from Stage-II allocation and is further required to commission minimum 10% of capacity allocated to power producers, within one month from the date of charging the evacuation line of project. It is submitted that the remaining capacity needs to be completed within one year from the charging of evacuation line. That, the Petitioner submits that the Petitioner shall complete the entire project within 6 months.

2.19. Aggrieved by the inaction of the Respondents to consider the request for extension of the timelines, solely on account of unforeseen reasons, the

Petitioner has filed the present petition before this Commission praying to exercise its powers under section 86 of the Electricity Act read with Regulation 80 & 82 GERC (Conduct of Business) Regulations, 2004 and thereby direct Respondent No. 1 to grant an extension of 6 months from the date of issuance of the Implementation Order for commissioning of the Evacuation Line along with bays and metering system.

- 2.20. In light of the above it is imperative for this Commission to intervene and provide relief to the Petitioner by directing Respondent No. 1 to grant an extension of 6 months to the Petitioner for commissioning of the entire Project from the date of the Order of this Commission in the current petition.
- 2.21. This Commission has the jurisdiction to entertain and decide the instant Petition in terms of Section 86 of the Electricity Act, 2003.

3. **GETCO filed its reply and contended as under:**

- 3.1 Since the Petition relates to the connectivity at 11 kV voltage class, the connectivity to the Petitioner is dealt with by the Distribution Company, DGVCL being Respondent No. 3. While the TFR is issued by GETCO as per request of Distribution Company, the aspects on connectivity and consequences thereof are dealt with by the Distribution Company. The bank guarantee is not issued in favour of GETCO but in favour of the Distribution Company. GETCO has no role to play on the invocation of bank guarantee or cancellation of connectivity to the Petitioner. The Respondent No. 3, DGVCL may deal with the aspects raised in the Petition.

4. **DGVCL's reply dated 26.06.2025 in brief as under:**

- 4.1. The Petitioner in the present Petition is seeking extension of commissioning for six months from the date of the Order of this Commission in the present Petition for the commissioning of the entire Project- 3.948 MW (AC) Capacity

Solar Power Project at, Village-Selod, Taluka- Jahagadia, District Bharuch in the State of Gujarat ("**Project**") and the same is being contested by the DGVCL in the present reply.

- 4.2. The Commission, vide exercising its powers conferred under the Electricity Act, issued a Tariff Order dated 31.08.2024 in Order No. 06 of 2024 on the tariff framework for the procurement of power by Distribution Licensees and others from Solar Power Projects to be commissioned in the State of Gujarat. Further, the Control Period for which the Tariff Order would be applicable has been defined under Clause 3.2(a) of the Tariff Order dated 31.08.2024 to be effective from 01.04.2023 till 31.03.2027.
- 4.3. In terms of Gujarat Renewable Energy Policy 2023 ("Gujarat RE Policy 2023") and GERC Open Access Regulation 2011 ("Open Access Regulations 2011"), the Petitioner had applied to develop a 3.948 MW (AC) Capacity Solar Power Project Accordingly, the Project was to be developed in terms and accordance with the Gujarat RE Policy, 2023, Open Access Regulations 2011, read with the GERC Solar Tariff Order dated 31.08.2024.
- 4.4. It is submitted that the Petitioner has never approached DGVCL for payment of the estimate towards supervision charge for the erection of dedicated distribution line for the evacuation of the solar power project. This indicates that the Petitioner is still not ready to carry out the work. Therefore, the Petitioner's request for extension of the time period for commissioning of the solar power project ought to be rejected.
- 4.5. It is submitted that the Petitioner had registered two different solar power projects under the same name, each governed by separate policy frameworks of the Government of Gujarat, namely:
 1. 4.0 MW project under the Gujarat Solar Power Policy, 2021;
 2. 3.948 MW project under the Gujarat Renewable Energy Policy, 2023.

However, the Petitioner has submitted only one BG No. 1653IGF005908724 amounting to Rs. 20 Lacs.

4.6. It is submitted that the solar power project of 4.0 MW was commissioned for 3.98 MW on 02.08.2024. Following this, based on the Petitioner's request, the Respondent issued a BG discharge letter on 23.01.2025. However, due to inadvertence, DGVCL considered the BG that was submitted for the second uncommission project, rather than the commissioned one. As a result, the BG for the remaining uncommission project needs to be submitted is not submitted by the Petitioner. Therefore, the Petitioner is required to submit BG amounting to Rs. 39.48 Lacs to DGVCL, so as to ensure the continued validity and enforceability of obligations on the uncommission solar power project.

4.7. On 03-01-2024, the Petitioner applied for the provisional GEDA registration for the ground-mounted solar power plant project. In furtherance of the same, the following timeline is of relevance:

Sr. No.	DATE	PARTICULARS
1.	4.01.2024	The Petitioner submitted application for seeking grid connectivity for its proposed 3.948 MW solar project to DGVCL & GETCO.
2.	05.02.2024	Pursuant to the Petitioner's Application, GETCO's Division office conveyed granting of Grid connectivity and Technical Feasibility Report (" TFR ") for the Petitioner's proposed solar power project having capacity of 3.948 MW AC. The same was acknowledged by DGVCL as application bearing GP no. 93.

3. 23.02.2024 Land Owner applied to the revenue authorities for seeking permission to use the land for non-agricultural purposes.
 4. 16.05.2024 Revenue Authorities rejected the Application stating that the Department of Land Record has raised certain objections relating to the Division of land due to the Canal that passed through the land.
 5. 28.09.2024 After the rejection of the Application the Land Owner again applied for the permission of Non-Agricultural use.
 6. 19.12.2024 The Application was allowed by the Land Revenue Department.
 7. 18.01.2025 The Petitioner purchases the land for the Project from the landowner.
- 4.8. The Petitioner has prayed that the GETCO grant an extension of six months for the commissioning of the entire project from the date of the Order of this Commission in the present Petition.
- 4.9. In terms of the Gujarat RE Policy 2023 and the GERC Solar Order dated 31.08.2024, the Petitioner was to complete the Project and evacuation of the dedicated evacuation line within 12 months from the date of allotment of transmission capacity. i.e., on or before 04.02.2025 in the present case.
- 4.10. In view of the above, if the Developer fails to commission the dedicated evacuation line along with the metering system and bays, as well as the awarded project capacity within the timelines specified, the Connectivity granted to such Project developers shall be cancelled and the Bank Guarantee shall be encashed. The Commission has also given the rationale for the same.

- 4.11. The Petitioner has claimed that the Petitioner met with the following challenges while pursuing the laying of transmission lines along with the metering system, for which the Petitioner has sought a three-month extension for the commissioning of the evacuation/transmission line along with the metering system, and the details of the same is as under:
- (a) Delay in the acquisition of Land;
 - (b) Change in the Banking Policy by the Government,
 - (c) Time taken for approval from the Government Authorities for laying the Transmission Line.
- 4.12. The extension of the time, as sought by the Petitioner, must be considered by this Commission in accordance with the applicable law. As laid down in the Tariff Order dated 31.08.2024 and in the Gujarat RE Policy 2023 as well, the Petitioner is required to commission the Project capacity along with evacuation facility including metering infrastructure within 12 Months from the date of allotment of transmission capacity by way of receiving the Technical Feasibility Report ("**TFR**"), i.e. By 04.02.2025.
- 4.13. The failure to do so cannot, at such a belated stage, be raised to claim an extension of the timeline when the Petitioner was well aware of the timelines as provided before taking up the Project. Therefore, DGVCL is well within its rights to seek the measures as provided under the Order dated 31.08.2024 if the Petitioner fails to commission the project.
- 4.14. There are no specific force majeure provisions in the Tariff Order dated 31.08.2024. Force majeure clauses are only to be as provided in an agreement between the parties. In the present case, there is no such agreement. The contention of the Petitioner to the contrary is erroneous.
- 4.15. It is submitted that it is the responsibility of the Petitioner to demonstrate that the delay caused in following the timeline was not attributable to the

Petitioner. The burden of proof in this regard lies on the Petitioner, and the Petitioner is required to substantiate its claim, and this Commission may verify the same. If there was any default or imprudence on the part of the Petitioner, the Petitioner cannot be allowed an extension.

- 4.16. Further, if the Petitioner was otherwise delayed, it cannot then take advantage of unforeseen events to claim an advantage and seek an extension of time. It is relevant to mention that force majeure is an exception to the principle of performance of obligations by the parties and is therefore to be strictly construed. It is not open to a party to make vague allegations of force majeure and seek relief from its obligations.
- 4.17. DGVCL vide letter dated 10.02.2025 had issued a default and show cause notice to the applicant to furnish the reasons as to why the TFR awarded to the Applicant should not be cancelled and revoked on account of violation of the GERC Tariff Order dated 31.08.2024, read with Gujarat RE Policy 2023.
- 4.18. It is submitted that GETCO vide letter dated 05.02.2024 awarded TFR for 3.948 MW (AC) Solar capacity. It is the responsibility of the Petitioner to ensure the submission of the Bank Guarantee with the DISCOM and same shall remain valid throughout pendency of the matter. Further, the Bank Guarantee is necessary to be an unconditional bank guarantee in terms of GERC Solar Tariff Order dated 31.08.2024 Clause 3.9 and DGVCL is entitled to encash the same or recover in a manner prescribed in DGVCL's default notice dated 10-02-2025 in case of default by the Petitioner.
- 4.19. The Petitioner has contended that initially it planned to set up the project by acquiring the land on a long-term basis however owing to the Land Owner's internal dispute and later on the decision was made that the land will be

acquired instead of leasing it and in order to seek approval of the same time was taken.

4.20. The application to the revenue authorities to use the land for non-agricultural purposes was made on 23.02.2024 and as the land for which the approval was sought had a canal that passed through it the same was rightly rejected by the Department of Land Record on 16.05.2024. It was on 28.09.2024 after a lapse of 4 months that a new application was made to the Department and the same was approved on 19.12.2024 by the Revenue Department. It is the case of the Petitioner that their Application should have been considered by the authorities even when the same were not in compliance with the required procedure which cannot be acceptable. Mere filing of an application in a time-bound manner without adhering to the requirements does not mean that the same will be accepted. The fault on the part of the Petitioner to not file a proper application cannot be ignored and the same cannot be condoned as the present Project had to be performed in a time-bound manner.

4.21. It is submitted that the State Government vide notification dated 4th October 2023 issued Gujarat RE Policy 2023 for RE projects to be installed and commissioned in the State of Gujarat from the date of issuance of Policy till 30th September 2028.

Moreover, this Commission vide notification dated 21-02-2024 issued GERC Green Open Access Regulations 2024 along with the GERC Open Access Regulation 2011. Additionally, a discussion paper dated 02.03.2024 was also issued by GERC for issuing GERC Tariff Order for solar projects across the State of Gujarat. The Petitioner is put to strict proof thereto in regard to its claims of regulatory uncertainty.

4.22. It is submitted that while there was no revision in the Banking Regulations as such, the letter dated 31.08.2024 was issued as a clarification based on the

clarification as issued by the Ministry of Power. The Petitioner has not provided any details as to how it was impacted and how many days of delay the said event caused to the Petitioner. No relief can be granted to the Petitioner on the basis of mere statements and vague description of the events. Even otherwise, there was no revision in the Banking Regulations and any submissions otherwise are denied and devoid of merit.

4.23. It is submitted that any RE Project is required to obtain and avail all project related approvals from the designated authorities/offices in terms of the applicable law, Regulations/Orders and RE Policy.

Further, it is a settled principle of law and reasonable that the Governments or authorities would take some reasonable time to process any request and this cannot be claimed as Force Majeure. In this regard DGVCL craves reference to the following decisions of the Court:

1. NTPC Vidyut Vyapar Nigam Ltd v. Precision Technik Pvt. Ltd 2018 SCC OnLine Del 13102-
2. Pasithea Infrastructure Ltd. vs. Solar Energy Corporation of India & Anr. 2017 SCC OnLine Del 12562

4.24. With regards to summary of relevant submissions of the Petitioners, the contents are denied by the Respondent DGVCL.

- **Inadvertent Delay in the commissioning of evacuation line-**

The contention of the Petitioner are baseless and denied. It is submitted that the Regulations, Tariff Order and the RE Policy were clear about the timeline fixed for the commissioning of the project. The failure on the part of the Petitioner to adhere to the same and commission the project cannot be fastened upon DGVCL and the Petitioner cannot escape its liability by raising belated, frivolous and baseless uncontrollable events.

- **Delay in the Acquisition of Land-**

Any RE Project is required to obtain and avail all project related approvals from the designated authorities/offices in terms of the applicable law, Regulations/Orders and RE Policy. Further, it is a settled principle of law and reasonable that the Governments or authorities would take some reasonable time to process any request and this cannot be claimed as Force Majeure. It is the case of the Petitioner that the Petitioner would submit improper application before the authorities and the same will stand accepted and approval will be given based on the same which is incorrect and cannot be accepted. In regard to the same, DGVCL has relied upon certain judgments in the aforementioned Para(s) and the same are not being repeated herein for the sake of brevity.

- **Change in the Banking Policy/Regulations-**

It is submitted that while the clarification was issued on 31.08.2024, no issue was raised at this time on any alleged delay and further it has to be considered whether there was any impact of the alleged re-assessment of evacuation line. The Petitioner has also not provided any details of when it allegedly suspended the project activities and re-started the same.

- **Delay caused due to late approval from Government Authorities-**

No details as to when the approval for land was applied or how much time the process took have been provided. Any RE Project is required to obtain and avail all project related approvals from the designated authorities/offices in terms of the applicable law, Regulations/Orders and RE Policy. DGVCL has dealt with the said issue in detail in the aforementioned para and the same is not being repeated herein for the sake of brevity.

4.25. It is submitted that it is not open to the Petitioner to claim that the time period provided is not sufficient for commissioning the Evacuation Transmission Lines. The Petitioner did not challenge the RE Policy 2023 or the Tariff Order dated 31.08.2024 and the same has attained finality. As per the Tariff Order dated 31.08.2024 and above-mentioned Clause 2.2.3 and 3.9 the time-period

of 12 months as determined by this Commission has been determined following the due procedure which involves consulting with the stakeholders involved and the same has now attained finality. Therefore, at such a belated stage from the date of the award of TFR a request of extension cannot be raised. Further, the Petitioner has only now sought to raise challenges as allegedly faced by the Petitioner which are merely afterthoughts raised by the Petitioner to escape its liability.

- 4.26. It is submitted that the mere fact that the sister concern of the Petitioner was able to commission the Project within the said timeline proves that the time as provided as per the RE Policy and the Gujarat Tariff Order are sufficient and if the Petitioner had followed diligence since the inception of the Project the present project would have also been commissioned in time. Further, in the Tariff Order dated 31.08.2024, the Commission has noted the requirement of timely completion of power evacuation system as well as timely execution of the project.
- 4.27. Referring to Clause 3.9 of the Tariff Order dated 31.08.2024, it can be said that the timeline as stipulated in the Order is for the commissioning of the project as per the project capacity and accordingly the project developer is mandated to commission the project capacity accordingly. The Order also provides for the consequences of not adhering to the same and DGVCL shall act in accordance with law. DGVCL relies on the submissions made in the Preliminary Submissions and same are not reiterated for the sake of brevity.
- 4.28. If any solar project developer fails to commission within stipulated time-period due to unforeseen reasons, they may approach to the Commission seeking for extension of time period and accordingly, DISCOM is not vested with authority to consider such time extension request for project commissioning.

- 4.29. It is submitted that the power is to be exercised in terms of the Tariff Order and not under Conduct of Business Regulations. Further the Petitioner's claim for timelines is vague – “Six months from date of issuance of implementation order for commissioning of transmission line along with metering system”. It cannot be the case that the Petitioner takes no steps until the present Petition is decided.
- 4.30. It is submitted that the Commission may consider all aspects and decide on the issue of timelines and consequent charges / BG encashment or penalty /consequence payment charges towards failure for non-compliance of aforesaid Policy / Order / Regulation.
5. Petitioner’s Rejoinder reply dated 25.06.2025 and 29.07.2025
- 5.1. The Petitioner submits that, the Petitioner has filed the present petition seeking extension of time in commissioning of the Petitioner’s 3.948 MW AC Capacity Ground mounted solar power plant Project. The Petitioner submits that the petitioner had endeavoured to complete the project in time, however due to certain factors enumerated in the petition, the petitioner could not commission the project within the stipulated time.
- 5.2. That, upon receipt of the Technical Feasibility Report (TFR), the Petitioner promptly initiated the land acquisition process for setting up the solar power plant project. However, the land acquisition has caused some delays in the timely completion of the project. That initially the Petitioner had intended to set off the project by acquiring land on a long term lease basis, however owing to Land owner's internal dispute and later on change in their decision to sale the Land rather than leasing it, the Petitioner decided to instead acquire the land at village - Selod, Survey no. 182 for setting up of the Project by way of an outright sale. That, the land owner applied to the revenue authorities for seeking permission to use the land for non-agricultural purposes on

23/2/2024, however, the revenue authorities rejected the said application on 16/05/2024 on the ground that the report of the Department of Land Record had raised certain objections relating to the division of land due to the Canal that passed through the Land.

- 5.3. That, thereafter substantial time was consumed in removing the objections raised by the land Revenue department and the work of DLR, on the partition of land through DLR as survey no. 182/A/1, 182/A/2 and 182 B the landowner once again applied for permission for non-agricultural use of the land on 28/9/2024 and the same was granted only on 19.12.2024.
- 5.4. That, thereafter vide 2 sale deeds for survey no. 182/A/1 and 182 A/2 the Petitioner purchased the land for the Project from the landowner on 18.1.2025. That, at the time of filing the present petition, the land levelling of the project is complete and the fencing work has also been done. While, the Petitioner was undertaking the work towards completion of the land infrastructure, the looming regulatory uncertainty on account of various aspects created impediments for the Petitioner which has also resulted in inadvertent delay in the execution of the project. That the reassessment of the solar power plant project capacity due to revised banking regulations (capping banking at 30% of net consumption from DISCOM) has resulted in financial hardships for the Petitioner. These unforeseen circumstances resulted in inadvertent delays, which were beyond the Petitioner's control.
- 5.5. That, the Petitioner was constrained to undertake a comprehensive reassessment of the project capacity because of the issuance of Letter No. GUVNL/0079/08/2024, dated 31-08-2024, by the Government of India, wherein clarifications were provided regarding the permissible capacity for banking purposes.

- 5.6. The, aforesaid letter stipulated that the banking facility shall be limited to an upper cap of 30% of the net consumption from the Distribution Company (DISCOM), thereby necessitating a thorough re-evaluation of the Petitioner's ground-mounted solar power plant capacity. That due to the said clarification, the Petitioner was compelled to temporarily suspend plant activities, as any revisions to the project capacity could have potentially led to far-reaching changes in the project's configuration, scope, and timeline.
- 5.7. That, the petitioner had also initiated the work for getting NOC's from different government authorities with regards to laying the underground transmission line, namely Ministry of forest, R & B Department, MIPD Canal, which also took substantial time for approval and some of them are still under process, without which laying of the transmission line as per guidelines was not possible.
- 5.8. That, in fact, despite the hardships faced by the Petitioner and the unforeseen events that occurred, the project of the Petitioner is an progression
- 5.9. The Petitioner submits that as held by the Hon'ble Supreme Court of India as well as other courts that even if the reason for delay in commissioning of the project is not a force majeure event or an unforeseeable reason, however since there has been a huge investment in the project and as the project is in the final stages it would be unfair not to extend the timeline for commissioning the project. More particularly the Hon'ble Supreme Court in the matter of **M.P Power Management Company Ltd. v/s Renew Clear Energy Pvt. Ltd-** as reported in **2018 (6) SCC 151**.
- 5.10. It is further submitted that in view of what is stated above and the averments and contentions taken in the petition, the petition filed by the Petitioner is required to be allowed and the prayers prayed for therein are required to be granted in the interest of justice.

- 5.11. The Petitioner initiated its project planning based on the Tariff Order dated 31.08.2024, which outlined the regulatory framework and control period ending on 30.12.2024. Technical Feasibility Report from GETCO on 05.02.2024.
- 5.12. The Petitioner has also submitted a detailed rejoinder in response to the objections, wherein the justifications for the delay have been elaborated. It has been reiterated that there was no intentional delay on part of the Petitioner. The Non-Agricultural (NA) Order process alone consumed nearly 10 months despite consistent follow-up. During this period, the Petitioner attempted to undertake preparatory works such as boundary wall construction and transmission line activities, but these too were adversely affected by the NOC's issues in regards to laying the underground transmission line. Supporting documents including the NA applications, permissions have already been submitted on record.
- 5.13. Despite the Petitioner's continuous and earnest efforts, the following unforeseen factors contributed to the delay in completion of the evacuation infrastructure (1) Delay in getting NA Order(2) NOC Challenges (3) Revised Banking Regulations:
- 5.14. In fact, despite the hardships faced by the Petitioner and the unforeseen events that occurred, the project of the Petitioner has been proceeded appropriately and the project process report has been filed, which goes on to show that the delay in commissioning the project is very less and therefore directions are required to be issued to the Respondents to permit the Petitioner to complete the project.
- 5.15. The Petitioner, pursuant to the submission made at the time of hearing of the matter has furnished a bank guarantee to DGVCL. Copy of the bank guarantee is also provided. Bank Guarantee of Rs.19,70,000/- dated 21.07.2025 in

favour of DGVCL submitted with validity up to 21.07.2027 and claim period is up to 21.10.2027.

5.16. It is further submitted that the M/s. KASA ARK LLP. being the executive company associated for Engineering, Procurement, and Construction) work for a ground-mounted solar project for Saanika Polytex Pvt. Ltd., has confirmed the continuous developments in the project.

5.17. The information and updates pertaining to the projects are mentioned herein with the below respective table:

PROJECT UPDATES (SAANIKA POLYTEX PVT. LTD.)		
Sr No	Particular	SAANIKA POLYTEX
1.	Structure for 5.4 MW	Advances Paid
2.	Transformer	Procured
3.	Solar Modules	Procured
4.	DC Cables	Procured
5.	LT Panel	Procured
6.	Miscellaneous Products	Procured

The Petitioner has also provided the copy of invoices of the procured materials for the Project.

5.18. Owing to the delay in disbursement, the Petitioner has been unable to complete the module delivery process, as the same involves substantial capital expenditure. In light of this and the concurrent monsoon season, the Petitioner has prayed for an extension from this Commission's order for commissioning of the Solar Power Project.

- 5.19. That despite continuous effort, adverse weather and pending loan disbursement continue to affect the timely execution of remaining on-site works. The Petitioner has assured that all efforts are being taken to expedite the same and annexes herewith photographs evidencing the current stage of project development.
- 5.20. In view of the above, it is respectfully reiterated that the delay was neither deliberate nor negligent but purely attributable to factors beyond the Petitioner's control. The Petitioner humbly seeks indulgence of this Commission for an extension of three months from the date of the order to commission the project in full compliance with technical and statutory requirements.

6. **DGVCL's reply dated 17.07.2025**

- 6.1. The Respondent reiterated the certain contentions as per Para 4 and further submitted as under:
- 6.2. The extension has been sought by the Petitioner on account of the following alleged challenges faced in laying the transmission lines, which caused the delay, as claimed by the Petitioner, as under:
- (a) Delay in the acquisition of land;
 - (b) Change in the Banking Policy by the Government;
 - (c) Delay in the grant of NA Permission.

SCOD STATUTORY FRAMEWORK:

- 6.3. In terms of clause 3.9 of the Tariff Order dated 31.08.2024 and Gujarat RE Policy 2023, the Petitioner was required to commission the Project along with the evacuation facility within 12 Months from the date of allotment of

transmission capacity by way of receiving the Technical Feasibility Report (TFR), i.e. by 04.02.2025.

- 6.4. If the Developer fails to commission the dedicated evacuation line along with the metering system and bays, as well as the awarded project capacity within the timelines specified, the Connectivity granted to such Project developers shall be cancelled and the Bank Guarantee shall be encashed. Further, the cancelled capacity shall be included in the list of spare capacity available for RE integration to be published on the respective website. The Commission has also given the rationale for the same.

Preliminary Objections:

- 6.5. There are no specific force majeure provisions in the Tariff Order dated 31.08.2024. Force majeure clauses are only to be as provided in an agreement between the parties. In the present case, there is no such agreement.
- 6.6. In terms of the Tariff Order dated 31.08.2024, the Petitioner is required to commission the Project along with the evacuation facility within 12 Months from the date of allotment of transmission capacity by way of receiving the Technical Feasibility Report (TFR), i.e. by 10.03.2025. The failure to do so cannot, at such a belated stage, be raised to claim an extension of the timeline when the Petitioner was well aware of the timelines as provided before taking up the Project.
- 6.7. The Petitioner has also relied upon the judgment of the Hon'ble Supreme Court in the matter of **M.P. Power Management Company Limited vs Renew Clear Energy Private Limited** as reported in (2018) 6 SCC 151 to substantiate its submission. In response thereto, it is submitted that the said decision of the Hon'ble Supreme Court, as relied upon by the Petitioner, is distinguishable from that of the present case as the delay in the MP Power (supra) case was only for 16 days and the project was on the verge of the

completion in contrary to the delay of 6 months as claimed by the Petitioner in the present case.

- 6.8. It is submitted that the Petitioner has never approached DGVCL for payment of the estimate towards supervision charge for the erection of a dedicated distribution line for the evacuation of the solar power project. This indicates that the Petitioner is still not ready to carry out the work. Therefore, the Petitioner's request for extension of the time period for commissioning of the solar power project ought to be rejected.
- 6.9. Even in the Rejoinder dated 25.06.2025 filed by the Petitioner, no substantive details or documents pertaining to the said events as claimed by the Petitioner have been provided. In the absence of supporting documents or any evidence with regard to the unforeseen events as claimed by the Petitioner, no relief can be granted to the Petitioner as the onus of proof to prove that the events as claimed were unforeseen and in spite of the best efforts of the Petitioner, the delay occurred which the Petitioner has failed to do so in the present case.
- 6.10. In view of the non-compliance on the part of the Petitioner with regard to the submission of the Bank Guarantee as per its Daily Order dated 02.07.2025 wherein it was submitted by the Advocate representing the Petitioner that the Bank Guarantee would be submitted within a span of 7 days and misrepresentation, DGVCL reiterates its earlier stand taken in the Default & Show Cause Notice dated 10.02.2025 issued to the Petitioner categorically stating that in case of non-submission of the requisite Bank Guarantee by the Petitioner, any amount payable towards noncompliance with the GERC solar tariff order dated 31-08-2024 shall be duly adjusted along with the electricity bill of the captive users of the plant. Therefore, owing to the non-compliance, DGVCL is entitled to take recourse as available under the law against the Petitioner.

Regarding the Tariff Order dated 31.08.2024 & RE Policy 2023:

6.11. As per the Tariff Order dated 31.08.2024, the following factors have to be observed for considering if the Project has been impacted by any unforeseen circumstance:

- (a) Type of events that impacted the commissioning of the Project;
- (b) How has the project been impacted by such events;
- (c) The impact, if any, caused the delay for how much duration.

6.12. In the Tariff Order dated 31.08.2024, this Commission has noted the requirement of the timely completion of the power evacuation system and the timely execution of the project. Clause 3.9 of the Tariff Order dated 31.08.2024 states that the proposed evacuation system from the pooling station of solar projects forms part of the overall GETCO System.

6.13. While the timely completion of the power evacuation system for such solar projects is essential, the timely execution of the project is also equally important. As per the Tariff Order dated 31.08.2024, the Solar Power Project Developer is mandated to commission the project for at least 10% of the allotted capacity within one month of charging the evacuation line or as per the timeframe stipulated, whichever is earlier, failing which, the Developer shall be liable to pay long-term transmission charges for 10% of the allotted capacity until such 10% of the allotted capacity is commissioned. The balance 90% capacity shall require to be commissioned within one year of charging of evacuation line or as per timeframe stipulated above, whichever is earlier, failing which STU shall cancel the connectivity and Open Access granted, to the extent of capacity not commissioned and the RE developer shall have no claim on such capacity and pay relinquishment charges as determined by the Commission.

No documents / proof have been produced to prove the effect of the claims:

- 6.14. It was the responsibility of the Petitioner to demonstrate that the delay caused in following the timeline was not attributable to the Petitioner. The burden of proof in this regard lies on the Petitioner, and the Petitioner has failed to substantiate its claim.
- 6.15. The issue-wise submissions on the claims of the unforeseen circumstances as raised by the Petitioner are as under:

Revision in the Banking Regulations:

- 6.16. There was no revision in the Banking Regulations as such, the letter dated 31.08.2024 was issued as a clarification based on the clarification as issued by the Ministry of Power. No issue was raised by the Petitioner previously, and further, it has to be considered whether there was any impact of the alleged reassessment of the evacuation line. The Petitioner has also not provided any details of when it allegedly suspended the project activities and restarted the same.
- 6.17. It is submitted that the Petitioner has failed to show or substantiate how the clarification of the banking of energy regulations affects the project capacity of the Petitioner, and in view of the same, how the reduction in the project capacity is required. In view of the same, the above delay, as contended by the Petitioner, is baseless.

Delay in the Acquisition of Land & Delay in Grant of NA Permission

- 6.18. The Petitioner has contended that initially, it was planned to set up the project by acquiring the land on a long-term basis however owing to the Land Owner's internal dispute and later on, the decision was made that the land would be acquired instead of leasing it, and in order to seek approval of the same time was taken. The application to the revenue authorities to use the land for non-agricultural purposes was made on 23.02.2024, and as the land

for which the approval was sought had a canal that passed through it, the same was rightly rejected by the Department of Land Records on 16.05.2024.

- 6.19. It was on 28.09.2024, after a lapse of 4 months, that a new application was made to the Department, and the same was approved on 19.12.2024 by the Revenue Department. No details as to when the approval for land was applied for or how much time the process took have been provided. Mere filing of an application in a time-bound manner without adhering to the requirements does not mean that the same will be accepted. The fault on the part of the Petitioner to not file a proper application cannot be ignored, and the same cannot be condoned as the present Project had to be performed in a time-bound manner.
- 6.20. Any RE Project is required to obtain and avail all project-related approvals from the designated authorities/offices in terms of the applicable law, Regulations/Orders and RE Policy.
- 6.21. Further, it is a settled principle of law and reasonable that the Governments or authorities would take some reasonable time to process any request and this cannot be claimed as Force Majeure.
- 6.22. In the above facts and circumstances, it is submitted that the Commission may consider the aforesaid submissions made by DGVCL while passing the Order in the present Petition.

Commission Finding and Analysis:

7. Heard the parties. The present Petition has been filed by the Petitioner seeking extension of time period for commissioning of the transmission line along with metering system by a period of 6 months from the date of allotment of transmission capacity to the Petitioner by the Respondent No. 1 GETCO.

8. The facts which are undisputed between the parties are as under:
- 8.1. The Petitioner has been granted technical feasibility for set up 3.948 MW (AC) solar power plant for captive use on 05.02.2024 for power injection point at 66kV Selod Sub-station by the Respondent No. 1 GETCO. As per the technical feasibility granted by the Respondent No. 1 GETCO, it is subject to proposed 1 no of 11 kV Solar feeder panel with power evacuation (Grid Connectivity) of 3.948 MW (AC) from solar plant of the Petitioner located at village Selod Ta : Jhagadia.
- 8.2. As per the connectivity (TFR) granted, the Petitioner was required to commission the transmission line by 04.02.2025.
- 8.3. As per Clause 17 of the Gujarat Renewable Energy Policy 2023 dated 04.10.2023, the Renewable Energy project developer shall require commissioning the entire evacuation line along with bay and metering system within 12 months from the date of allotment of transmission capacity for RE project up to 100 MW.
- 8.4. In case of RE project developer fails to commission the entire evacuation line with bays and metering system within the stipulated time period, STU or DISCOMs shall encash the Bank Guarantee.
- 8.5. The Petitioner has paid Bank Guarantee of Rs.20 Lacs instead of Rs. 39.48 Lacs with consideration of two project out of which one project commissioned for which DGVCL issued BG discharge letter dated 23.01.2025 as per the submission made by the Respondent.
- 8.6. Admittedly the Petitioner paid BG of amount of Rs.19.48 Lacs to the Respondent on 29.07.2025 i.e., after filing of the Petition hearing the matter by the Commission and passed by the Order dated in the Petition.

- 8.7. Admittedly the Petitioner has not paid BG for connectivity as per the provisions of Open Access Regulations and procedure framed under which is mandatory condition for grant of connectivity under date of application of connectivity and grant of connectivity.
- 8.8. The Petitioner has not paid for supervision charges for the dedicated distribution / transmission charges for evacuation of power as per provisions of GERC Regulations.
- 8.9. The Petitioner has stated that it has completed following works for creation of evacuation infrastructure and also invested huge amount in the project as stated below:

PROJECT UPDATES (SAANIKA POLYTEX PVT. LTD.)		
Sr No	Particular	SAANIKA POLYTEX
1.	Structure for 5.4 MW	Advances Paid
2.	Transformer	Procured
3.	Solar Modules	Procured
4.	DC Cables	Procured
5.	LT Panel	Procured
6.	Miscellaneous Products	Procured

9. The disputed facts between the parties are as under:
- 9.1. The banking facility provided in Green Energy Open Access Regulations is not having clarity lead to delay in construction of transmission system which is dispute between the parties.

- 9.2. That, acquisition of the land which took time has resulted in the inadvertent delay in completion of the project.
- 9.3. The change in the financial banking policy by the Government resulted in delays in completion of the project.
- 9.4. Delay in obtaining various approvals from government authority like Road and Building Department (R&B), National Highway Authority of India (NHAI), Ministry of Environment, Forest and Climate Change, MIPD canal etc. for laying down transmission / distribution network.
- 9.5. The time consumed for approval from the government authorities for laying transmission line.
10. Now, we deal with the issues one by one which are under dispute between the parties as under:
11. **Delay occurred due to Banking facility clarification:**

Petitioner's Submissions:

- 11.1. The Petitioner submitted that the Commission has notified Green Energy Open Access Regulations, 2022 wherein it is permitted to grant open access for green energy to the generator, consumer, licensee for transmission/ distribution of energy by utilization of licensee network. The consumers having contract demand of sanctioned load of 100 KW or more are eligible for open access.
- 11.2. Regulation 17 of the said Regulations provides for Banking facility and charges. The Banking facility and charges are specified in Regulations 17.6 (vi). A plain reading of the aforesaid provision reflects that the consumers should be allowed banking facility of minimum 30% of total consumption. However, the said issue was interpreted by the concerned authorities in Gujarat that they would allow banking for the quantum of energy which was

above 30% of total consumption. It led to uncertainty amongst the stakeholders/ developers, and they are approaching relevant authorities for clarification of the said provision.

11.3. It is submitted that the aforesaid interpretation had been ignored the infirm nature of the Renewable energy.

11.4. Some of the RE developers/ consumers /investors have approached the Energy & Petrochemicals Department, Govt. of Gujarat and Ministry of Power, Govt of India regarding interpretation of banking provision of Green Energy Open Access Rules,2022.

11.5. The Ministry of Power, issued clarification on 21.8.2024 with respect to the banking provision of Green Energy Open Access Rules,2022, stating that:

- a) Energy obtained through open access arrangements, either through a third-party supplier or via captive generation utilizing the distribution network will be excluded from the calculation of banked energy.
- b) The permissible quantum of banked energy, a minimum of 30% of total monthly consumption, only the energy directly procured from the distribution licensee shall be considered.

11.6. GUVNL issued a clarification on banking provisions after receipt of clarification from the MoP on 31.08.2024. Specifically, the aforesaid letter stipulated that the banking facility shall be limited to an upper cap of 30% of the net consumption from the Distribution Company (DISCOM), thereby necessitating a thorough re-evaluation of the Petitioner's ground-mounted solar power plant capacity. In consequence of the said clarification, the Petitioner was compelled to temporarily suspend plant activities, as any revisions to the project capacity could have potentially led to far-reaching

changes in the project's configuration, scope, and timeline. Following the clarification on banking and reassessment of project capacity, the Petitioner resumed work with full speed to meet the commissioning deadline.

11.7. Therefore, the Petitioner was unable to carryout project development work due to uncertainty about the banking affecting the designing of the project.

Respondent's submission:

11.8. Per-contra the Respondent contended that the contention of the Petitioner with regard to non-clarity on banking facility is not permissible as a ground for extension of the time limit for the transmission system.

11.9. There was no revision in the Banking Regulations as such, the letter dated 31.08.2024 was issued as a clarification based on the clarification as issued by the Ministry of Power.

11.10. The Petitioner has not shown how lack of clarity in banking regulation impacting the evacuation system to be laid down by the Petitioner. The Petitioner has not provided any details of approaching to the Commission for clarification nor has stated the efforts taken by it. The Petitioner did not approach the Commission at that time for any aspects of delay. The capacity for evacuation of line as per the procedure is based on voltage of connectivity and not capacity of the project. The capacity of the line to be constructed by the Petitioner would have remained same irrespective of capacity of the project. Hence, the contention of the Petitioner on above aspect is not valid.

Commission's Analysis:

11.11. We note that the Petitioner has raised the issue that Regulation 17 of the Green Energy Open Access Regulation which state with regard to banking facility is not having clarity, it provides the banking quantum is permitted to green energy open access consumer shall be at least 30% of total

consumption of electricity from the distribution licensee by the consumer which means the banking permitted is minimum 30% of total consumption of the licensee. The interpretation of the same provision led to uncertainty, and it creates regulatory vacuum. In absence of the clarification on it the investment be on standstill position. The said issue was clear with clarification dated 31.08.2024 issued by GUVNL based on MoP clarification dated 21.08.2024.

11.12. Per contra the Respondent submitted that the Petitioner has not shown how lack of clarity affected on evacuation of system to be laid down by the Petitioner. They had neither approached to the Commission nor taken any efforts against it. The evacuation line as per the detailed procedure is based on voltage of connectivity and not for the capacity of the project.

11.13. We note that the contention of the Petitioner is that there is regulatory vacuum during 13.02.2024 to 31.08.2024 on account of the banking permissible under green energy open access is concerned, we note that the Petitioner had applied for connectivity and evacuation of power from its 2.48 MW ground mounted solar Project. The Respondent GETCO/DGVCL had granted Technical Feasibility approval for 05.02.2024. The bank guarantee of Rs. 19,70,000 was paid by the Petitioner on 21.07.2025 i.e., after the claim of uncertainty of banking facility from 13.02.2024 to 31.08.2024 period completed. The aforesaid facts transpires that the claim of the Petitioner that the regulatory vacuum on banking aspects affected to execute the transmission network by the Petitioner is not accepted and valid because it is an admitted fact that the connectivity was granted to the Petitioner on 05.02.2024 and bank guarantee was paid by the Petitioner on 21.07.2024. Thus, prior to above date the claim of the Petitioner that regulatory vacuum on banking aspects affected to the Petitioner to create necessary infrastructure is not correct and valid.

11.14. We also note that the Petitioner has sought connectivity and applied for open access for evacuation of 3.948 MW project which is permissible based on the voltage capacity of the line on which such power evacuation is permissible. Thus, the transmission infrastructure and other facility which required to be created by the Petitioner is at the voltage capacity of such infrastructure i.e. at 11 kV transmission system including lines. It has no impact on banking facility because the necessary transmission infrastructure be created for evacuation of energy generated from 3.948 MW power project of the Petitioner.

11.15. We also note that the Petitioner has neither filed any Petition for clarification of banking provision to the Commission nor it had provided any supporting documents specifying that in absence of clarification on banking aspects it affect the Petitioner to create the distribution infrastructure.

11.16. Considering the above, we are of the view that the claim of the Petitioner that due to no clarification/clarity on permissible banking capacity under green energy open access regulations affected the Petitioner to create the necessary transmission infrastructure is not substantiated with facts and documents and it is not a ground for grant of extension.

12. Now we deal with the issue raised by the Petitioner that delay occurred in acquisition of Land and getting NA Permission by the government authority.

Petitioner's submissions:

12.1. The timely completion of solar power project has been unavoidably delayed due to unforeseen complications in the land acquisition process. Following the receipt of the Technical Feasibility Report (TFR), the Petitioner promptly initiated efforts to secure the project site. Our initial plan to acquire the land on a long-term lease was disrupted due to the landowners' internal disputes,

which led to their decision to sell the land instead. To move the project forward, the Petitioner agreed to an outright purchase of the property at Village Selod, Survey No. 182. Subsequently, the landowner applied for Non-Agricultural (NA) use permission on February 23, 2024. However, the revenue authorities rejected this application on May 16, 2024, citing objections from the Department of Land Record related to the division of the land by an existing canal. These circumstances were beyond our control and have directly impacted the project schedule.

- 12.2. Thereafter, substantial time was consumed in removing the objections raised by the land Revenue department and the work of DLR, on the partition of land through DLR as survey no. 182/A/1, 182/A/2 and 182 B the landowner once again applied for permission for non-agricultural use of the land on 28/9/2024 and the same was granted only on 19.12.2024.
- 12.3. He submitted that vide 2 nos of sale deeds for survey no. 182/A/1 and 182 A/2, the Petitioner purchased the land for the Project from the landowner on 18.1.2025. That, at the time of filing the present petition, the land levelling of the project is complete and the fencing work has also been done.
- 12.4. That, the Petitioner had also initiated the work for getting NOC's from different government authorities with regards to laying the underground transmission line, namely Ministry of forest, R & B Department, MIPD Canal, which also took substantial time for approval and some of them are still under process, without which laying of the transmission line as per guidelines was not possible. In fact, despite the hardships faced by the Petitioner and the unforeseen events that occurred, the project of the Petitioner is on progression.
- 12.5. There was no intentional delay on part of the Petitioner. The Non-Agricultural (NA) Order process alone consumed nearly 10 months despite consistent follow-up. During this period, the Petitioner attempted to

undertake preparatory works such as boundary wall construction and transmission line activities, but these too were adversely affected by the NOC's issues in regard to laying the underground transmission line.

Respondent's Submission:

- 12.6. It is submitted by the Respondent that the Petitioner has contended that initially it planned to set up the project by acquiring the land on a long-term basis however owing to the Land Owner's internal dispute and later on the decision was made that the land will be acquired instead of leasing it and in order to seek approval of the same time was taken.
- 12.7. The Respondent denied the Petitioner's excuse for the delay. Their first land use application (23.02.2024) was correctly denied because it was flawed from the start due to a canal on the property. After the rejection on 16.05.2024, they waited more than four months to re-apply correctly on 28.09.2024. That application was approved. The timeline shows the delay was caused by the Petitioner's initial error and subsequent inaction, not by the authorities. The fault on the part of the Petitioner to not file a proper application cannot be ignored and the same cannot be condoned as the present Project had to be performed in a time-bound manner.
- 12.8. It is a fundamental and non-negotiable obligation for any Renewable Energy (RE) project developer to secure all requisite approvals in compliance with applicable laws, regulations, and policies. Furthermore, it is a settled legal principle that government authorities require a reasonable period to process applications; such standard administrative timelines cannot be invoked as a Force Majeure event. The Petitioner's apparent expectation that authorities are bound to accept and approve an improper or non-compliant application is legally untenable. Regulatory bodies are not obligated to overlook procedural deficiencies.

12.9. No details as to when the approval for land was applied or how much time the process took have been provided. Any RE Project is required to obtain and avail all project related approvals from the designated authorities/offices in terms of the applicable law, Regulations/Orders and RE Policy. In the absence of supporting documents or any evidence with regard to the unforeseen events as claimed by the Petitioner, no relief can be granted to the Petitioner as the onus of proof to prove that the events as claimed were unforeseen and in spite of the best efforts of the Petitioner, the delay occurred which the Petitioner has failed to do so in the present case.

Commission's Analysis:

12.10. We note that as per submission of the Petitioner that after getting TFR on 05.02.2024, the Petitioner had to process project related activities. Initially it planned to set up the project by acquiring the land on a long-term basis however owing to the Land Owner's internal dispute and later on the decision was made that the land will be acquired instead of leasing it and in order to seek approval of the same, time was taken.

12.11. As per submission of the Petitioner that the Petitioner had outright purchased the property at Village Selod, Survey No. 182. Subsequently, the landowner applied for Non-Agricultural (NA) use permission on February 23, 2024. However, the revenue authorities rejected this application on May 16, 2024, citing objections from the Department of Land Record related to the division of the land by an existing canal. These circumstances were beyond our control and have directly impacted the project schedule.

12.12. As per the Petitioner's say that substantial time was consumed in removing the objections raised by the land Revenue department and the work of DLR, on the partition of land through DLR as survey no. 182/A/1, 182/A/2 and 182 B the landowner once again applied for permission for non-agricultural use of the land on 28.09.2024 and the same was granted only on 19.12.2024.

Thereafter, the Petitioner purchased the land for the Project from the landowner on 18.01.2025.

12.13. We also note that the Petitioner contended that the work for getting NOC's from different government authorities with regard to laying the underground transmission line, namely Ministry of forest, R & B Department, MIPD Canal, which also took substantial time for approval and some of them are still under process, without which laying of the transmission line as per guidelines was not possible. However, in support of above contentions the Petitioner has submitted any documents, evidences on record to substantiate the same. We observe it is merely a statement without supporting document which are not tenable in the eyes of law, hence the same is rejected.

12.14. In that the delay in securing Non-Agricultural (NA) land use approval is attributable to the farmers whose land desired to procure by the Petitioner's own procedural negligence, not an unavoidable setback. The initial application, submitted to revenue authorities on 23.02.2024, was fundamentally flawed as the land in question was bisected by a canal. Consequently, its rejection by the Department of Land Record on 16.05.2024 was justified and foreseeable because the said land is for canal as per record. Following this rejection, the Petitioner allowed over four months to lapse before submitting a new, compliant application on 28.09.2024, which was subsequently approved on 19.12.2024. The time taken of 81 days by the Government authority seems qualified for NA approval.

12.15. The Petitioner's contention that a non-compliant application should be considered merely because it was filed is untenable. Adherence to procedural requirements is not optional, especially for a time-bound project. The failure to submit a proper application from the outset constitutes a lapse in due diligence, and the resulting delay cannot be excused. From the above, we also note that the Petitioner has not submitted any documents/evidences with

regard to the above contentions, hence in absence of the evidences on record the same is not acceptable

12.16. Further the Respondent submitted that, no details as to when the approval for land was applied or how much time the process took have been provided. Any RE Project is required to obtain and avail all project related approvals from the designated authorities/offices in terms of the applicable law, Regulations/Orders and RE Policy.

12.17. Considering the aforesaid we are of the view the selection of land and acquisition of land issue pertain to the project developer and it has to be decided by the Petitioner prior to obtaining the Technical Feasibility reports from the Respondent.

12.18. It is a fundamental obligation for any Renewable Energy (RE) project developer to secure all requisite approvals in compliance with applicable laws, regulations, and policies on the ground of land acquisition for development of project and purchase of the same, it is responsibility of the project developer to secure all its requirement for development of the project.

12.19. Further, the Petitioner has not placed on record the documents for getting NA permission and when it has applied for NA permission and how much time had been taken by the relevant government authorities. In absence of relevant documentary evidences, the commission constrain to grant any such time extension as sought by the Petitioner.

12.20. Prima-Facio it seems that the time of 81 days taken by the government official for grant of NA permission is beyond the control of the Petitioner. However, there is no documentary evidence in support of it. Hence, in absence of the same it is not permissible to accept contention of the Petitioner.

13. **Now we deal with the issue raised by the Petitioner that delay caused in commissioning the evacuation line is inadvertent and beyond the control of the Petitioner.**

Petitioner's Submission:

- 13.1. The Petitioner submits that the delay caused in commissioning the evacuation line is inadvertent and beyond the control of the Petitioner
- 13.2. As per the Tariff Order, the Petitioner is required to complete the transmission line/evacuation system within one year from the date of receipt of the technical feasibility report and to commission at least 10% of the capacity allocated to power producers within one month of the evacuation line being charged. The remaining capacity must be commissioned within one year from the date of charging of the evacuation line. Notwithstanding the foregoing, the Petitioner respectfully submits that, upon the Commission granting an extension of time, the Petitioner will commission the entire project within six months from the effective date of such extension.

Respondent's Submission:

- 13.3. It is submitted that the Petitioner has not approached DGVCL to pay the estimated supervision charges for the erection of the dedicated distribution line for evacuation of power from the solar project. This demonstrates that the Petitioner is not yet ready to execute the works. Accordingly, the Petitioner's request for an extension of the commissioning period ought to be rejected.
- 13.4. The Petitioner has prayed that the GETCO grant an extension of six months for the commissioning of the entire project from the date of the Order of this Commission in the present Petition. In this regard, it is submitted that the extension of the time, as sought by the Petitioner, must be considered by this Commission in accordance with the applicable law.

Commission's Analysis:

13.5. We note that in terms of the Gujarat RE Policy 2023 and the GERC Solar Order dated 31.08.2024, the Petitioner was to complete the Project and evacuation of the dedicated evacuation line within 12 months from the date of allotment of transmission capacity. i.e., on or before 04.02.2025 in the present case. Further the Petitioner has not approached before the Respondent DGVCL who is competent authority under whose Licensee's area network, the Petitioner prayer connected and connectivity on DGVCL network connected by the Petitioner project. Further, it is also undisputed between the parties that the Petitioner has neither approached the DGVCL for laying down its dedicated line from the Project to connecting place so that such line supervised by DGVCL as per Order/Regulations of the Commission and paid necessary charges for such supervision of dedicated distribution/transmission network. The petitioner had not made payment of the estimate towards supervision charge for the erection of dedicated distribution line for evacuation of power from the solar power plant which are mandatory needs to pay by the Petitioner. This shows that the Petitioner is not ready to carry out the distribution line related infrastructure works. In absence of the evacuation infrastructure approval and payment of supervision charge to the Respondent, the extension sought by the Petitioner is not valid and acceptable.

14. We also note that as per the submission of the Respondent the Petitioner has registered two distinct solar power projects under the same name, each under a separate policy framework of the Government of Gujarat, namely:

- 4.0 MW project under the Gujarat Solar Power Policy, 2021; and
- 3.948 MW project under the Gujarat Renewable Energy Policy, 2023.

However, the Petitioner furnished only one Bank Guarantee (BG) bearing No. 1653IGF005908724 for Rs. 20 lakhs. The 4.0 MW project was commissioned for 3.98 MW on 02.08.2024. Thereafter, pursuant to the

Petitioner's request, the Respondent issued a BG discharge letter on 23.01.2025. Further the Respondent submitted that owing to inadvertence, DGVCL treated the BG submitted for the second uncommissioned project as the BG pertaining to the commissioned project and discharged the same. Consequently, a valid BG must now be furnished for the uncommissioned project. The Petitioner has therefore required to submit a BG of Rs. 39.48 lakhs to DGVCL to ensure the continued validity and enforceability of obligations relating to the uncommissioned solar project.

15. We also note that pursuant to the submission made at the time of hearing of the matter the Petitioner has furnished a bank guarantee to the Respondent DGVCL. Copy of the bank guarantee is also provided. Bank Guarantee of Rs.19,70,000/- dated 21.07.2025 in favour of DGVCL submitted with validity up to 21.07.2027 and claim period is up to 21.10.2027.
16. We further note that the Petitioner as well as the Respondent have not provided the statue of the bank guarantee and its amount and its validity for the Petitioner's solar power project at the time of registration of the Petition and as noted in foregoing para, after conducting the hearing before the Commission, the Petitioner submitted the BG to the Respondent.
17. We note that the validity of a bank guarantee (BG) related to connectivity for a renewable energy project extends until the project is fully commissioned and all performance obligations are met. We further note that the validity period is determined by specific regulations and the Power Purchase Agreement (PPA), with provisions for extensions if the project is delayed. Once the project is successfully commissioned, and all penalties for delays have been settled, the performance BG is returned to the developer. GEDA certifies the successful commissioning, which triggers the process for the BG's release.

18. We are of the view that the grounds raised by the Petitioner for granting extension of six months period from the Order of the Commission for completion of the solar power project and infrastructure for evacuation of power from its power project to nearby substation is not having any merits. Further the Petitioner had not approached before the Respondent for development of distribution line and payment of supervision charge. This shows that the Petitioner has not taken any steps for the development of evacuation infrastructure till the filing of the Petition and even rejoinder filed by the Petitioner dated 29.07.2025. Addition to that the Petitioner has not placed substantial documents related with NA Permission and government approval for its claims for extension in time for the completion of the solar power project. Considering the aforesaid observations, none of the above three grounds as mentioned herein are supportive to the Petitioner and hence, the prayers as sought by the Petitioner are not accepted and valid. Therefore, the same are rejected.

19. We order accordingly.

20. With this order, the petition stands disposed of as dismissed.

Sd/-

**[S.R. Pandey]
Member**

Sd/-

**[Mehul M. Gandhi]
Member**

Place: Gandhinagar.

Date: 16/09/2025