

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2469 of 2025.

In the Matter of:

Petition under Section 86 of the Electricity Act, 2003 read with Regulations 80 and 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, Gujarat Energy Transmission Corporation to grant extension of time for commissioning of the 1.1 MW AC Capacity Solar power Project.

Along with

IA No. 29 of 2025 in Petition No. 2469 of 2025.

In the Matter of:

Interlocutory Application is filed for Application seeking ad interim stay on the encashment of bank guarantee of the Petitioner furnished to Respondent No. 3 under Regulation 61 read with Regulation 80 of the GERC (Conduct of Business) Regulations, 2004.

Petitioner/ Applicant : Pankaj Enka Pvt. Ltd.
Ground Floor, 65, Subhash Nagar Society,
Ghod Dod Road, Surat – Gujarat – 395 007.

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: 02/07/2025.

DAILY ORDER

1. The matter was kept for hearing on 26.06.2025.
2. At the outset, Ld. Adv. M. N. Marfatia appearing on behalf of the Petitioner submitted the Rejoinder during the hearing and provided a copy to the parties.
3. Ld. Adv. Aneesh Bajaj on behalf of the Respondent DGVCL also submitted the Reply during the hearing with a copy to others.

4. Ld. Adv. M. N. Marfatia for the Petitioner submitted that the present Petition is filed under Section 86 of the Electricity Act, 2003 read with Regulations 80 and 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, Gujarat Energy Transmission Corporation to grant extension of time for commissioning of the 1.1 MW AC Capacity Solar power Project. He submitted that the Technical Feasibility Report (TFR) was issued by GETCO on 11.03.2024.

4.1. He submitted that said Solar Power Project is governed under the provisions of the Tariff Order dated 31.08.2024 (Order No. 6 of 2024). The Petitioner has provided the required Bank Guarantee to the Respondent No. 3 DGVCL. It is submitted that pursuant to the TFR dated 11.03.2024 the Petitioner executed lease deed for land on 08.03.2024. Thereafter, the Petitioner had applied for getting the NA permission on 06.05.2024 before the relevant Revenue authority and the Petitioner has received the Non-Agriculture (NA) permission for use of the land on 14.09.2024 and 16.09.2024, hence the Petitioner's project got substantial delay of 6 months due to delay in grant of NA permission by the Revenue Authorities.

4.2. He further submitted that there was delay caused due to reassessment of the solar power plant project capacity due to revised energy banking Regulations where there was capping for banking of energy at 30% of net consumption from DISCOM, which resulted in financial hardships for the Petitioner. It is further submitted that the Petitioner was constrained to undertake a comprehensive reassessment of the project capacity due to letter No. GUVNL/0079/08/2024 dated 31.08.2024, wherein the clarifications were provided regarding the permissible capacity for energy banking purpose. The aforesaid letter limited the banking facility with an upper cap of 30% of the net consumption from the DISCOM, hence the Petitioner had to reevaluate its ground-mounted solar power plant's capacity.

4.3. He further submitted that due to unprecedented heavy rainfall and flooding in the project area it was impossible for the Petitioner to render the evacuation work and supply. Further, the Petitioner had faced the problem of increase in Anti-Dumping Duty on solar glass and therefore the solar module delivery got delayed by 2 months.

4.4. It is further submitted that as per the Tariff Order dated 31.08.2024 the Petitioner is required to complete the transmission line/ evacuation system works within one year from the date of receiving the TFR. Further, it is required to commission minimum 10% of the capacity allocated to power producers, within one month from the date of charging the evacuation line of

the project and the remaining capacity needs to be completed within one year from the charging of evacuation line.

4.5. He further submitted that the Hon. Supreme Court of India in its Judgement dated 05.04.2018 in Civil Appeal No. 3600 of 2018 has allowed to extend the timeline for commissioning of the project even when there is no *Force Majeure* event and even if other conditions such as unavoidable circumstances or in-ordinate delays are caused in commissioning of the power project.

5. On the query of the Commission about the work completed / status for the present power project, he submitted and referred the status of the power project and submitted that the work at the project site is almost complete except works likes Earthing works, AC wire works, DC wire works, IDT Yard. The planned date of commissioning of the power project is 30.09.2025. He also requested to allow time to file its detailed submissions on the aspects of delay and reasons for such delay.

6. Ld. Adv. Mr. Aneesh Bajaj on behalf of the Respondent submitted that there is no clarity about the completion of the work, as if there are no details filed. On the issue of the land, the Petitioner has not annexed the applications being filed with the relevant government Authorities for obtaining its approval also the Petitioner has not mentioned about the problems being faced for acquiring the land for its power project. At para-No. 11 in the Petition the

Petitioner has submitted that the Petitioner shall commission the total project capacity within 3 months sought from the period, which is extended by the Commission, therefore it should be clarified that what is the actual time that the Petitioner is seeking to be extended.

- 6.1. He further submitted on the issue raised by the Petitioner for Anti-Dumping duty on solar glass that the TFR was issued on 11.03.2024 and the Anti-Dumping duty was increased on 04.12.2024, hence there was substantial time to procure the Solar Panels. The Petitioner has not submitted any reason for the delays in such procurement of solar panels.
- 6.2. He further submitted on the issue of heavy rainfall and flooding conditions mentioned as one of the reasons for unforeseen conditions by the Petitioner that the Petitioner has not filed any reliable report from Meteorological Department on record to substantiate its claims.
- 6.3. He further submitted on the issue of energy banking as raised by the Petitioner that how did the letter of GUVNL directly impacted the Petitioner is not clarified in its submissions. He submitted that through the said clarification of GUVNL there was nothing added new to the existing Regulations to the Banking of Energy.
- 6.4. He further submitted that the Judgement of Hon. Supreme Court as referred to by the Petitioner is different in the facts and circumstances as compared

to the present Petition, hence it cannot be fully relied. The Judgement was with regard to the Project Developer who was to relocate its land for its project and in that case also the Court allowed to encash the Bank Guarantee. In the present case the Petitioner is required to pay the termination amount.

7. Ld. Adv. M. N. Marfatia submitted that the project would be completed in next two months-time period.
8. On the further query of the Commission that when the modules are there and all works are being carried out then why the Petitioner needs 2 months-time to commission its power project. Ld. Adv. of Petitioner submitted that there are some works yet to be completed, detail of which are filed in their rejoinder. Further, he requested to file its detailed submissions.
9. Heard the parties. We note that the present Petition is filed by the Petitioner under Section 86 of the Electricity Act, 2003 read with Regulations 80 and 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, Gujarat Energy Transmission Corporation to grant extension of time for commissioning of the 1.1 MW AC Capacity Solar power Project.

10. We also note that the Petitioner has requested to allow the Petitioner to file the details mentioning the delays, clarifications and the status of the work completed of the power project, hence let it be filed within two weeks – time with a copy to others.
11. We note that the Parties have argued at length and placed their contentions in the subject matter and completed their arguments. We give liberty to both the parties to file their written submissions if any, within two weeks.. The matter is reserved for Final Order.
12. We Order accordingly.

Sd/- **Sd/-**
[S. R. Pandey] **[Mehul M. Gandhi]**
Member **Member**

Place: Gandhinagar.
Date: 02/07/2025.