

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2477 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 1.475 MW AC Capacity Solar Ground mounted Solar power Project.

Along with

IA No. 35 of 2025 in Petition No. 2477 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 : Anu Santosh Prints Pvt. Ltd.
313, Dayabhai Compound, At-Tantithaiya,
Taluka Palsana District Surat – 394 327.

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: 03/07/2025.

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 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 1.475 MW AC Capacity Solar Ground mounted Solar power Project. He submitted that the Technical Feasibility Report (TFR) was issued by GETCO on 20.02.2024. The Petitioner has sought six months extension in the present case.

- 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 dated 27.08.2024 to the Respondent No. 3 DGVCL. It is submitted that pursuant to the TFR received on 20.02.2024 the Petitioner planned to acquire the land on long lease, however, due to land owner's internal dispute, later on the land owner decided to sale the land rather than lease it. In order to avoid any undue delays, the Petitioner decided to execute an Agreement to sale on 30.03.2024 securing the requisite land for the power project. Thereafter, the Petitioner approached the Revenue Authorities for seeking permission to use the land for Non-Agriculture (NA) purpose. However, the said application was rejected on the ground that the report of the Department of Land Record had raised certain objections. The Petitioner again approached for NA after

removing the objections on 28.09.2024 with Mehsual Payment intimation dated 27.11.2024, considering the same the NA Order was granted for Plot No. 182 A – 2 on 23.12.2024. Hence, this process took substantial time.

4.2. He further submitted that the laying of transmission line works connecting to the solar power plant at 66 kV Selod Substation could not be completed by the Petitioner due to significant delays in obtaining requisite NOC permissions from the Statutory Authorities such as GIDC, R&B dept. and others. It is further submitted that delays incurred in securing RoW clearance from the farmers and local bodies, as the said transmission line traverses through their land. The Right to Use was applied on 26.08.2024, pursuant to it, the permission was granted by the Gujarat Industrial Development Corporation on 15.10.2024 for laying of electric cable at Jhagadia industrial estate.

4.3. He further submitted that the Executive Engineer from R&B Department, District Panchayat, Bharuch granted approval on 25.10.2024 for laying the 11 kV transmission line for solar power plant. He further referred the photographs of water logging of the roads due to heavy rainfalls for approaching the project site of the Petitioner.

5. On the query of the Commission that when the permission of land was not received till October 2024 then how did it impacted Petitioner, the Petitioner

submitted that pursuant to the TRF issued on 20.02.2024, the Petitioner executed sale deed on 30.03.2024 and started the work. He also referred the progress report placed at Para No. 12 at page No. 358 showing the details of completion of work. He further sought two months - time to commission the project.

5.1. It is 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.

5.2. 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.

5.3. 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 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. He also requested to allow time to file its detailed submissions on the aspects of delay and reasons for such delay.

6. Ld. Adv. 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 mentioned in its Petition that there were some internal disputes between the owners of land, hence this is purely commercial decision, and delays due to it cannot be considered under the *Force Majeure* conditions. He also submitted that initially the Petitioner had submitted the incomplete application before the Revenue Department which got rejected. Hence, it cannot be termed as a delay on the part of authorities. Although, if the delay is counted then it should be from the date of submitting the rectified application.

6.1. He further referred the claim of the Petitioner for RoW issues and submitted that there is nothing submitted by the Petitioner to substantiate its claim.

- 6.2. He further submitted on the issue raised by the Petitioner for Anti-Dumping duty that the TFR was issued on 20.02.2024, whereas the Anti-Dumping duty was increased vide Notification dated 04.12.2024, hence there was substantial time to procure the Solar Panels. The Petitioner has not submitted any reasons for the delays in such procurement of solar panels.
- 6.3. 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 during the rainy season is normal and expected and the Petitioner has not filed any reliable report from Meteorological Department on record to substantiate its claims.
- 6.4. 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.
- 6.5. He further submitted that the Judgement of Hon. Supreme Court as referred 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 details 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 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 1.475 MW AC Capacity Solar Ground mounted 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/ reply if any, within two weeks. The matter is reserved for Final Order.
12. Order accordingly.

Sd/-

[S. R. Pandey]
Member

Sd/-

[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 03/07/2025.

