BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION GANDHINAGAR

Petition No. 2504 of 2025

In the matter of:

Petition filed under section 86(1) (c), (f) & (e) and other applicable provisions of the Electricity Act, 2003 read with Regulations 80 and 82 of the GERC (Conduct of Business) Regulations, 2004 seeking extension of time period for construction of the evacuation infrastructure till the commissioning of the entire capacity of 40 MW of Wind Power Project at 220 KV Savarkundla Substation for a period of 12 months from the date of expiry of Stage I and Stage II connectivity approval i.e. till 28.06.2026 due to unforeseen events.

Petitioner : Sarjan Realities Private Limited

Represented by : Ld. Adv.Mr. Aditya Singh

V/s

Respondent : Gujarat Energy Transmission Corporation Ltd

Represented by : Ld. Adv. Mr. Aneesh Bajaj alongwith Mr. Shobhraj Jayswal

CORAM:

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

Date: 01/10/2025

ORDER

1. The present petition has been filed by the Petitioner under Section 86 (1)

(f), Section 86 (1) (c) & (e) of the Electricity Act, 2003 read with Regulations 80 and 82 of the GERC (Conduct of Business) Regulations 2004 seeking following reliefs:

(a) Admit the present Petition; and;

(b) Hold and declare that the delay caused in construction of the evacuation infrastructure and bays and commissioning of the 40 MW Wind Power Project at 220 KV SavarKundla Substation of GETCO was due to unforeseen Events not attributable to the Petitioner; and

(c) Grant an extension of 12 months from the date of expiry of the Stage I and Stage II Connectivity approval for construction of evacuation infrastructure and bays at 220kV Savarkundla Substation of GETCO for delay caused due to unforeseen Events not attributable to the Petitioner; and

(d) In the interim, direct the Respondent not to take any coercive action including but not limited to revocation of connectivity and encashment of the bank guarantee till the pronouncement of order; and

(e) Pass such further Order or Orders as this Hon'ble Commission may deem just and proper in the events of the case.

2. The facts of the case as submitted by the Petitioner is stated in brief as under:

2.1. The Petitioner, Sarjan Realities Private Limited is a Company incorporated under the Companies Act, 2013.

2.2. The Petitioner is developing 40 MW Wind Power Project at 220 KV Savarkundla Sub-station, Dist.- Amreli of the Respondent under captive mode.

2.3. The Petitioner is generating company within the meaning of Section 2 (28) of the Electricity Act, 2003.

2.4. The Respondent, Gujarat Energy Transmission Corporation Ltd. is a Company incorporated under the Provisions of the Companies Act, 1956 and GETCO is wholly owned by the Government of Gujarat. GETCO is the State Transmission Utility, within the meaning of Section 2(67) of Electricity Act, 2003, in the State of Gujarat. The functions of GETCO include undertaking transmission of electricity through intra-state transmission system, ensuring development of an efficient, coordinated system of intra-state transmission lines for smooth flow of electricity from a generating company to the load centres in the state of Gujarat.

2.5. The petitioner, while intending to set up a 40 MW wind power projects under captive mode, applied for the grant of Stage-I and Stage-II connectivity on 03.05.2024 and 05.05.2024 respectively seeking for grant of connectivity from the Respondent. The petitioner was thereby granted with Stage-I and Stage-II connectivity on 29.06.2024 for its 40 MW Wind Power Project at 220 KV Savarkundla Sub-station of the Respondent, GETCO.

2.6. The Petitioner has suffered delays, regarding implementation of the evacuation line along with bays and metering system and wind power project, due to various unforeseen and uncontrollable impediments and challenges not attributable to the Petitioner:

I. Problems faced in sharing of Evacuation Infrastructure with the Lead Generator and delay in allocation of separate space for feeder bay to the Petitioner by the Respondent.

II. Delay in issuance of Final Estimate on behalf of the Respondent, after the allotment of separate space for installation of 66 KV Feeder Bay.

III. Lack of Banking facility clarification.

IV. Delay in Transformer deliveries due to market demand crisis.

2.7. In pursuance to Regulation 20 of the Open Access regulations, the STU of Gujarat i.e. GETCO submitted Procedure for 'grant of connectivity to projects based on renewable energy sources to intra-state transmission system' with the Commission. After incorporating necessary changes required, the Commission, on 07.01.2023, approved the connectivity procedure which provided for applying for connectivity to STU and underlying conditions for grant of such connectivity.

2.8. The Para 9.6 of the said approved procedure states that intimation for grant of Stage-II connectivity shall include name of the sub-station where Stage-II connectivity is granted and details of the bay with Single Line Diagram in case of existing substation.

2.9. The Para 9.7 of the approved procedure states that STU shall issue the estimate for the work like Bay construction and/ or other works required to carry out at Connectivity Sub-station to the Stage-II Connectivity grantee within 30 days of issuance of Stage-II connectivity grant letter. The Stage-II Connectivity grantee shall pay the estimate within 30 days and sign the Agreement for Connectivity to Transmission system in accordance with Clause 6 (4) of the GERC Connectivity Regulations, as amended from time to time, within 5 days thereafter. Thus, the full process shall be completed within 65 days from the date of issuance of intimation of grant of Connectivity.

2.10. The Para 10.2 (A) of the approved procedure states that connectivity grantees shall be required to complete the dedicated transmission line including required bay, bus-bar at transmission licensee's substation and generator pooling sub-station within the timeline specified by the State Commission in relevant tariff orders. However, commission of generation capacity was not left for the tariff order, and it was specifically recorded in the Procedure. Clause 10.2 (C) of the said connectivity procedure provides that after a renewable energy Generating Station is granted Stage-II connectivity, such connectivity grantee shall commission at least 10% of the allotted capacity within one month of charging of evacuation line and the rest 90% of the allotted capacity shall be commissioned within two years. Clause 10.2 of the connectivity procedure is given as follows:

"9.6 The intimation for grant of Stage-II Connectivity shall include the following:

(i) Name of the Sub-station where Stage-II Connectivity is granted.

(ii) Details of Bay along with Single Line Diagram in case of existing substation and in case of planned substation, if the same is available with STU.

10.2

(A) Stage-II Connectivity grantees shall require completing the dedicated

transmission line(s) including require bays, bus-bar at transmission licensees substation and generator pooling sub-station(s) etc. within timeline specified by the State Commission in relevant Orders/ LOA/LOI/ PPA for projects, as applicable time to time.

(C) The Stage-II grantee shall commission at least 10% of the allotted capacity within one month of charging of evacuation line, failing which; the Stage-II grantee shall be liable to pay long-term Transmission Charges for 10% of allotted capacity till such 10% of allotted capacity is commissioned. Balance 90% capacity shall be required to be commissioned within two years failing which STU shall cancel the capacity allotment to the extent of capacity not commissioned and the developer shall have no claim on such capacity. Further, STU shall include such cancelled capacity in the list of spare capacity for RE integration to be published on their website for prospective consumers or as per the State Commission's Order, if any."

2.11. Thus, after the completion of the evacuation infrastructure, the Procedure for the Grant of Connectivity 2023 under clause 10.2 (C) states that the Stage-II grantee must commission at least 10% of the allotted capacity within one month after the evacuation line is charged. If not, the grantee will have to pay long-term transmission charges for that 10% until it is commissioned. The remaining 90% shall be commissioned within 2 (two) years. If the grantee fails to do so, the State Transmission Utility (STU) will cancel the un-commissioned portion of the capacity.

2.12. On 21.03.2024, Bank Guarantee of Rs. 2,00,00,000 (Rupees Two Crores Only) was submitted to the Respondent, which was subsequently amended on 22.04.2024 as well as on 03.05.2024. The Expiry date as per the last amendment has been specified as 30.04.2026. The claim expiry date has been mentioned as 30.04.2027.

2.13. The Bank Guarantee was furnished in consideration of arrangement entered by the Petitioner with GETCO for connecting 40 MW Wind project at 220 kV Savarkundla Substation of GETCO and towards security deposit for completing 40 MW wind project within time period specified in the approved connectivity procedure.

2.14. On 03.05.2024, the Petitioner applied for Stage-I connectivity for evacuation of 40 MW (Wind power) at GETCO 220 KV Savarkundla through Stage-II grantee on 66 KV under Captive mode.

2.15. On 05.05.2024, the Petitioner applied for stage-II Connectivity before the Respondent.

2.16. On 29.06.2024, the Petitioner was granted with Stage-I and Stage-II connectivity by the Respondent for 40 MW wind Power Plant for Captive purpose at 220 KV Savarkundla SS on sharing basis with lead Generator being M/S Green Prairie Energy II Private Limited **("Lead Generator")** who was granted stage-II connectivity for 30 MW vide Letter dated 23.07.2023 by the Respondent.

2.17. On 18.07.2024, the Respondent issued the Provisional Estimate of Supervision Charges to the Petitioner for erection of 66 KV Metering Bay for evacuation of 40 MW Wind Power evacuation at 220 KV Savarkundla (GETCO) S/S *through Sharing mechanism* with Lead Generator who had been granted Stage-II connectivity i.e. from Wind Power Station under Option-3.

2.18. The Petitioner, vide letter dated 09.08.2024, paid the supervision charges of Rs. 74,404/- to the Respondent vide Demand Draft No. 0036G7.

2.19. On 16.08.2024, the Petitioner entered into a connectivity agreement along with its schedules and O&M Agreement with the Respondent for establishing connectivity of 40 MW Wind Power Project at 66 KV level with 220 KV Savarkundla Substation of GETCO.

2.20. The Petitioner has been facing various challenges and difficulties leading to delay in construction and completion of evacuation infrastructure due to unforeseen events not attributable to the Petitioner.

Delay due to inaction of Lead Generator, issuance of separate Bay space

2.21. It is submitted that since the time of submission of Bank Guarantee and filing application for stage-I connectivity, the Petitioner has been acting in a prudent manner and has abide by all the timelines given under the Detailed Procedure as well as the Tariff Order. The Provisional estimate was issued by the Respondent on 18.07.2024 and the Petitioner was supposed to pay the same within 30 days. However, the Petitioner made the requisite payments on 09.08.2024 itself. Thereafter, the Connectivity Agreement was signed on 16.08.2024 i.e. before 30 days from the date of issuance of provisional estimate.

2.22. On 23.08.2024, the petitioner requested the Executive Engineer (Construction Division) GETCO, Amreli for a joint site visit so that sharing agreement can be signed between the Petitioner and the Lead Generator M/S Green Prairie Energy II Private Limited as per GERC approved procedure for connectivity.

2.23. On 11.09.2024, the Petitioner submitted a letter to the Respondent informing the site status of the Lead Generator M/S Green Prairie Energy II Private Limited wherein the Petitioner stated that the lead generator has not started any project activity and has not purchased any land for pooling substation. The Petitioner showed its readiness for starting the project activity and stated that they want to initiate the process of land acquisition for pooling Sub-station, which is getting delayed by the beginning day due to non-readiness of the lead generator.

2.24. Since delay was being caused due to non-readiness of the Project of the Lead Generator, the Petitioner vide letter dated 24.09.2024, requested the Respondent, GETCO to grant a separate space to the Petitioner for construction of bay and evacuation line as a separate lead generator or permit the Petitioner to construct a separate evacuation line and bay.

2.25. On 26.11.2024, after various follow ups by the Petitioner, the Respondent, vide their letter dated 26.11.2024, issued space to the Petitioner at GETCO's 220 KV Savarkundla Substation for installation of separate 66 KV Feeder Bay. The delay caused due to non-readiness of the Lead Generator and issuance of a separate bay caused a delay of 150 days from 29.06.2024 (date of grant of Stage-II Connectivity) to 26.11.2024 (day on which separate space for installation of 66 KV Feeder Bay was granted)

Delay in issuance of final estimate

2.26. It is submitted that a separate space for installation of 66 KV Feeder Bay was granted to the Petitioner by the Respondent on an assurance that the evacuation system will be commissioned within stipulated time without seeking time limit extension. Therefore, two days after the Separate space for 66 KV Feeder Bay was granted to the Petitioner; the Petitioner, on directions of the Respondent, submitted an undertaking to the Respondent. The Petitioner, while submitting the said undertaking, specifically requested the Respondent to issue the Estimate for installation of the 66 KV Feeder Bay at 220 KV Savarkundla SS at the earliest.

2.27. On 08.01.2025, the Petitioner visited the Respondent, and a meeting was held wherein the Petitioner requested for the issuance of Final Estimate for the space allocated for installation of separate 66 KV Feeder Bay on 26.11.2024.

2.28. On 17.01.2025, the Respondent sent an email to the Petitioner seeking proof of ownership of balance 50% land area.

2.29. On 21.01.2025, immediately after receipt of email dated 17.01.2025 from the Respondent, the Petitioner, sent a letter to the Respondent submitting that 17 out of 19 lands have been acquired and thereby submitted Title Clearance Report and DILR Mapni Sheet along with the said letter.

2.30. The Petitioner communicated multiple times to the respondent requesting the issuance of Final Estimate for the installation of 66KV Feeder Bay. In absence of the Final estimate, it was not possible for the

Petitioner to seek clearance under Section 68 and Section 164 of the Electricity Act, 2003. Thereby, the Petitioner was not able to start the installation work on feeder bay or seek RoW Clearance. The contention of the Respondent that the Petitioner could have applied to State Government for getting approval under Section 68/164 of the Act, cannot be accepted.

2.31. On 12.05.2025, after a delay of almost 5 (five) months, the Respondent issued the Final Estimate to the Petitioner for erection of 66KV Feeder Bay for evacuation of 40 MW Wind Power evacuation at 220 KV Savarkundla Substation of GETCO.

2.32. After the Final Estimate was received by the Petitioner on 12.05.2025, the Petitioner, made the payment for the same within 5 days of the issuance of such estimate.

2.33. On 17.05.2025 i.e. on same day of payment of final estimate, the Petitioner filed for the issuance of State Government Approval under Section 68 and Section 164 of the Electricity Act, 2003 for laying 66 KV S/C Transmission line from PSS to GETCO S/S vide application reference No. ELA/2025/273.

2.34. It was only after the final estimate was granted to the Petitioner on 12.05.2025, the Petitioner was able to initiate the application for Section

68 and Section 164 approval and initiate the work on installation of the Feeder Bay. Such issuance of Final Estimate on 12.05.2025 lead to a delay of 165 days from 28.11.2024 (i.e. date of submission of undertaking) to 12.05.2025 (i.e. date of issuance of Final Estimate).

2.35. The Petitioner has suffered for the delay of total 365 days after grant of stage-II connectivity due to aforesaid events and entitled for the extension of time for completion of evacuation infrastructure beyond the timeline specified under the connectivity agreement.

2.36. In addition to the aforesaid events, the Petitioner's wind power project also suffered due to lack of clarity on Banking facility and delay in transformer delivery due to market demand crisis.

Lack of clarity on Banking facility

2.37. The Commission came up with Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2024 on 21.02.2024 providing that consumer should be allowed banking facilities of minimum 30% of total consumption. However, this issue was interpreted by the concerned authorities in Gujarat as that they would only allow banking for the quantum of energy, which was above 30% of total consumption, which led to uncertainty amongst stakeholders. The investment in Gujarat came to standstill and stakeholders of the Petitioner started awaiting relevant clarification because present interpretation had ignored infirm nature of renewable energy.

2.38. The MoP, on 21.08.2024 issued a clarification with respect to the banking provision of the GEOA Rules, 2022. Post receipt of the clarification, on 31.08.2024, GUVNL issued a clarification on banking provisions and thereby uncertainty concerning banking was put to rest. Therefore, from 13.02.2024 till 31.08.2024, the ability of the Petitioner to progress with the development of the project was severally impacted.

2.39. The global supply chain issues affected the industries worldwide and resulted in severe shortages of critical components, including the specific circuit breakers required for this project. This led to a delay in delivery of transformers. Despite the Petitioner's best efforts, including proactive and continuous follow-up with the Original Equipment Manufacturers (OEM) suppliers, there has been no feasible way to expedite the delivery process within the initially anticipated timeframe.

Delay in transformer delivery due to market demand crisis

2.40. It is submitted that the delay in the delivery of Transformer is attributed to an ongoing market demand crisis and significant disruptions in the global supply chain, both of which constitute unforeseeable events that lie beyond the Petitioner's control. The then prevailing global supply chain issues, which have affected industries worldwide, have resulted in severe shortages of critical components, including the specific circuit breakers required for this Project. Despite the Petitioner's best efforts, including proactive and continuous follow-up with the Original Equipment Manufacturers (OEM) suppliers, there has been no feasible way to expedite the delivery process within the initially anticipated timeframe.

2.41. In the meeting held on 21.12.2023 by Ministry of Power, the issue of transformer and reactor shortages was discussed in detail. Representatives from the Indian Electrical and Electronics Manufacturers' Association (IEEMA) explained that due to a high number of tenders being released in 2023, the industry's manufacturing capacities have already been booked for 2024. As a result, manufacturers are unable to supply Extra High Voltage (EHV) transformers and reactors (400 kV and above) before March 2025. Additionally, the transformer industry is facing significant challenges due to a heavy reliance on imports for key components like CRGO and Copper, contributing to price fluctuations and supply chain constraints.

2.42. This situation mirrors the petitioner's predicament, where delays in transformer deliveries are largely due to global supply chain disruptions and market demand crises. Despite proactive efforts to follow up with suppliers and procure the necessary materials, these unforeseen supply challenges have caused substantial setbacks, making it impossible to meet the original project timelines due this unforeseen circumstance. The petitioner, like the industry at large, faces delays in fulfilling transformer orders due to limited manufacturing capacity, compounded by geopolitical factors and price volatility of essential materials. These issues were not anticipated during the project's planning phase, highlighting how such disruptions are beyond the control of the petitioner.

2.43. It is submitted that these disruptions were entirely outside the Petitioner's control and that every effort has been made to minimize their impact. The Petitioner's contractor has acted in good faith and even placed purchase orders for the transformer and other raw materials to various vendors.

The Undertaking dated 28.11.2024 submitted by the Petitioner does

not impact the Present case.

2.44. It is submitted by the Petitioner that two days after allocation of the Separate space for 66 KV Feeder Bay to the Petitioner i.e. on 28.11.2024; the Petitioner, on directions of the Respondent, submitted an undertaking to the Respondent stating that:

i. The Petitioner will pay the estimated charges towards the allotment of separate space.

ii. The Petitioner shall commission the evacuation system within the stipulated time and shall not ask for any further extension of time limit.

iii. The Petitioner shall not hold GETCO responsible for any delay in the Commissioning of the Project.

iv. The Petitioner shall undertake all safety measures as per the standard norms.

2.45. It is submitted that the Petitioner entered into the undertaking in a good faith that the Petitioner will commission the Project within the timeline given under the Tariff Order and the Petitioner made its best efforts towards the same. However, due to occurrence of the unforeseen events including the delay of over 5 (five) months in issuance of Final Estimate, the Petitioner's ability to commission within the timeline was severely impacted.

2.46. It is submitted that waiver of the right to sue can only be given as a contractual right. However, our prayer for extension does not arise from the contract but from tariff order of the Commission which is our legal and Statutory right.

GETCO's being STU is under an obligation to promote flow of renewable energy

2.47. GETCO is under an obligation to promote flow of renewable energy and also under obligation to not let renewable energy get stranded. Recognising these obligations, GETCO in good faith granted a separate space to the Petitioner for installation of a separate Feeder Bay since the Lead Generator in the sharing arrangement were causing delay in starting site activities and purchasing the land for pooling substation. For unforeseen reasons, the Petitioner is unable to built evacuation infrastructure, therefore the Petitioner should not be left stranded due to the delay caused on the basis of unforeseen events which were beyond the control of the Petitioner.

2.48. It is submitted that the Petitioner must not be punished for Events which were not in the control of the Petitioner and every effort possible was made to commission the project in time. That in the interest of equity, the date of Commissioning of the Project must be extended in order to ensure that the Petitioner does not suffer even after acting in a bona-fide manner.

2.49. The Section 86 (1) (c) & (f) of the Electricity Act 2003 provide for the functions of this Commission namely facilitating intra-state transmission of electricity, adjudicating upon the disputes between the licensee and the generating company.

2.50. The Petitioner is a generating company developing renewable power projects in the State of Gujarat and the issue raised in the present Petition relate to extension of time for commissioning the entire evacuation line along with Bays and Metering System in respect of connectivity for evacuation of 40 MW renewable power from Petitioner's project through 220 kV Savarkundla substation of GETCO i.e. intra-state transmission system in Gujarat. Accordingly, the Commission has jurisdiction to grant the relief sought for in the present Petition.

3. **The Respondent filed its reply and submitted as under:**

3.1. The Respondent, GETCO, is the state transmission Utility under section 39 of the Electricity Act, 2003 and a transmission licensee under the

Electricity Act, 2003. As the State transmission Utility, the Respondent discharges the functions as provided under sub-section 2 of section 39.

3.2. The Commission has framed GERC (Terms and Conditions of Inter-State Open Access) Regulations,2011 whereunder it is provided that the detailed procedure may be approved by the Commission which would inter alia, include aspects on application for connectivity and open access and other issues.

3.3. A detailed procedure was drafted in relation to the grant of connectivity to projects based on Renewable sources to Intra -State Transmission System and in terms of Open Access Regulations, the draft had been placed on the website of the Respondent to invite comments and suggestions and thereafter the same was placed before the Commission.

3.4. The Commission approved the detailed procedure for grant of connectivity to projects based on Renewable sources to Intra-state Transmission system on 07.01.2023.

3.5. In case of renewable energy source, the terms and obligation as per the tariff Order for the particular renewable energy source would apply and it is entirely the responsibility of the applicant/grantee to ensure the same.

3.6. If the grantee does not construct the dedicated transmission line as per the timelines, the stage II connectivity shall be revoked and the Bank Guarantee shall be encashed. The detailed procedure read with the relevant tariff orders provide for submission of bank guarantees and provide for cancellation with encashment of bank guarantee in case the grantee does not meet the requirements.

3.7. In regard to the Petitioner, the Stage II Approval was granted to the Petitioner for 40 MW capacity for wind power project under Captive Mode on 29.06.2024. If the timeline of 1.5 years, which was as per available Tariff Order dated 30.04.2020 at the time of grant of connectivity, is considered, the same expires on 29.12.2025 and therefore the Petitioner has time until 29.12.2025 for completion of the evacuation system. It is stated that GETCO has not issued any letter or notice in regard to the revocation of the connectivity granted on 29.06.2024.

3.8. It is submitted that the Daily Order dated 27.06.2025 in Para 4 as submission of Counsel for the Respondent is not correct. The Counsel had not made any statement on the date of expiry being 28.06.2025. The Commission may take on record the above submission.

3.9. However, the Petitioner has on its own considered the timeline as per

Order dated 31.08.2024 which was issued after the grant of connectivity. The Order dated 31.08.2024 further contemplates commissioning of power project within the timelines (1 month from charging for 10% and balance 90% within 1 year) or as per timeframe stipulated, whichever is earlier. This means that the entire project capacity has to be commissioned within the time frame in the table in the Order.

3.10. The Petitioner has sought for extension of the timelines which has to be considered by the Commission in terms of the Detailed Procedure read with Tariff Orders. While there is no specific provision of force majeure, the Tariff Orders only recognize failure to commission on case-to-case basis due to unforeseen reasons. While the Tariff Order recognizes the extension in certain cases, there is no inherent power in terms of the Electricity Act or otherwise in Conduct of Business Regulations or any other regulation for such aspects. Regulation 80 and 82 of the Conduct of Business Regulations do not apply to the present case.

3.11. There cannot also be any extension solely on the basis of the Petitioner being a renewable project. The Detailed Procedure as well as Tariff Order has been framed specifically for renewable projects and therefore there is no further consideration while complying with the requirements/provisions of the same. It cannot be that merely because the Petitioner is a renewable project, it can claim any delay or extension.

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

3.13. It is the responsibility of the Petitioner to ensure that the evacuation facilities/project is developed within time. It was the Petitioner who chose to apply for connectivity being well aware of the timelines and the consequences thereof.

3.14. The Petitioner is seeking on the basis of alleged aspects:

a. Banking facility clarification
b. Delay in transformer delivery due to market demand crisis
c. Problems faced in sharing infrastructure and delay in allocation of separate space for feeder bay
d. Delay in issuance of final estimate

Re: Banking Facility clarification

3.15. The Petitioner has claimed that there was lack of clarity on banking in terms of the GERC Green Open Access Regulations 2024. While there was no revision in the Regulations as such, the Letter dated 31.08.2024 was issued by GUVNL as a clarification based on the clarification dated 21.08.2024 by the Ministry of Power. It may be noted that the Petitioner had obtained connectivity for 40 MW and the final capacity also appears to be 40 MW only. The Petitioner has referred to confusion in terms of the quantum of banking allowed; however it is not clear who the concerned authorities are.

3.16. The Petitioner itself had applied for the Connectivity on 05.05.2024 knowing the situation and circumstances. In fact, the Petitioner proceeded to submit the estimate charges and enter into connection agreement. The estimate charges were paid vide Demand draft dated 09.08.2024 and even as per the Petitioner, the clarification was issued on 31.08.2024. Therefore. it is not clear how the Petitioner was affected by the alleged confusion, even assuming but not admitting that there was any such confusion.

3.17. Even otherwise, it is not clear how this has impacted the evacuation system to be laid down by the Petitioner to the substation. The Petitioner has also not provided any details of how it was affected, or stated that the project activities were at a standstill. The Petitioner has to clarify if it is its claim that no activity was carried out during this period. It may be noted that the Petitioner has not provided any details of approaching the Commission for clarification nor has it stated the efforts taken by it. The Petitioner also did not approach the the Commission at this time for any aspect of delay.

3.18. The Commission may consider whether such aspects can be considered and to what extent, if any, the above alleged confusion had any impact on the timelines for the construction of the evacuation line and whether there are supporting documents to that effect. It may be noted that the capacity of the evacuation line as per the Detailed Procedure is based on voltage of connectivity and not the capacity of the project. Therefore, the capacity of the line to be constructed by the Petitioner at 66 KV connectivity would have remained same, irrespective of capacity of the project.

3.19. It is relevant that on 28.11.2024, the Petitioner had given undertaking that it would commission within time. Therefore, clearly as on 28.11.2024, there was no consideration by the Petitioner that the evacuation system would be delayed. Therefore admittedly, the

Petitioner did not consider that there was any delay due to alleged confusion for banking aspects.

Re: Delay in transformer deliveries due to market demand crisis

3.20. The Petitioner has claimed that there is a delay in supply of transformers due to market demand crisis. As per the claim of the Petitioner itself, it was known in December 2023/January 2024 itself that there was a shortage of transformers and reactors. The Petitioner is seeking to rely on the meeting by Ministry of Power dated 21.12.2023 wherein the Petitioner itself states that the manufacturing capacity was already booked for 2024 and therefore manufacturers are unable to supply before March 2025, through the reference is to higher voltage whereas the Petitioner is 66 KV. Therefore, when the Petitioner applied on 05.05.2024 and received the Stage II Connectivity on 29.06.2024, it was aware of the issues. The Commission may therefore consider whether this can be considered as unforeseen reasons.

3.21. It is the responsibility of the Petitioner to arrange for all inputs/equipment etc and cannot seek extension merely because there has been a delay. This cannot be an unforeseen reason. Further in the present case, the Petitioner has not even demonstrated any actual delay but is only relying on vague assertions and the meeting dated 21.12.2023 (though no document has been produced). Further no aspect of whether there was any penalty claimed from the contractor. The Petitioner has not provided any details of when it had placed the order and what was the initial scheduled date and what was the delay and the reasons for the delay. If there is any delay or default on part of the Petitioner, the same cannot be claimed as reasons for extension.

3.22. The claim of global supply chain disruption is not substantiated. The delay by its contractor cannot be the basis of claiming extension. The claim of proactive follow up is also not substantiated.

3.23. The delays or unavailability of materials or delays by contractors/sub-contractors is not considered force majeure and has been excluded in case of PPAs. The Commission may consider whether the same can be a basis for consideration of extension of time and whether delay in delivery can be seen as unforeseen reasons. Further even if it is to be considered, the Petitioner has to demonstrate that the same was indeed unforeseen and was a sudden and new situation. It cannot be that if the situation of high market demand was already existing, the Petitioner can still claim the same as unforeseen.

Re: Problems faced in sharing infrastructure and delay in allocation of separate space for feeder bay

3.24. It is stated that initially the Connectivity to the Petitioner was granted on sharing basis. Accordingly, the Petitioner was to submit the Agreement with the lead generator as per Format 6 of the Detailed Procedure. However, no agreement has been submitted. It is further stated that the Petitioner has referred to attempts with Green Prairic Energy II Private Limited.

3.25. After various discussions and meetings, on request of the Petitioner, GETCO vide Letter dated 26.11.2024 decided to allot the space to Petitioner for installation of separate bay. The Petitioner had vide Letter dated 28.11.2024 submitted an Undertaking dated 28.11.2024 at its own will as noted in the said Undertaking and agreeing as under:

"This undertaking is executed. on the 28th day of November 2024 by M/s Sarjan Realities. Private Limited having. corporate office at "AP 81, 1702, 17th Floor, Mundhwa, Pune 4.11036, Maharashtra" and registered office at 'Godrej Millennium, 5th Floor, 9 Koregaon Park Road, Pune - 411001, Maharashtra. through Mr. Ankur Dilip Shah and as per authorization of the Board of Directors vide resolution dated 2Ph November 2023 in favor of

GETCO, a company incorporated under the provision of the companies act, 1956 and having its registered office at Sardar Patel Vidyut Bhavan, Race course, Vadodara, Gujarat. M/s Sarjan Realities Private Limited has submitted the undertaking at its own will in regard to allotment of space for separate 66 kV Feeder Bay in GETCO'S 220 kV Savarkundla Substation for timely completion of the evacuation system and RE project.

....

Whereas, Sarjan Realities Private Limited has assured to commission the evacuation system within stipulated time and shall not ask for further extension of the project.

Whereas subject to the above and without prejudice to the rights and contentions of GETCO and M/s Sarjan Realities Private Limited on the aspects of parties, rights, GETCO has agreed to allot space for separate 66 kV Feeder Bay to M/s Sarjan Realities Private Limited at 220 kV Savarkundla Substation.

NOW THIS UNDERTAKING WITNESS AS UNDER:

In consideration of GETCO agreeing to allot space to M/s Sarjan Realitie5 Private Limited for separate 66 kV Feeder Bay at 220 kV Savarkundla Substation, without prejudice to the rights and contentions of M/s Sarjan Realities Private Limited and GETCO, M/s Sarjan Realities Private Limited acknowledges, accepts, and undertakes the following.

1) M/s Sarjan Realities Private Limited shall pay to GETCO the estimate charge towards above arrangement.

2) M/s Sarjan Realities Private Limited shall commission the evacuation *system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit.*

3) M/s Sarjan Realities Private Limited shall not hold GETCO responsible before Regulatory Commission or any other Legal forum for any delay in the commissioning of RE Project / evacuation system and shall not make any financial claim on GETCO towards any delay.

……

5) This undertaking shall be enforceable against M/s Sarjan Realities Private Limited in accordance with law"

3.26. The attempt of the Petitioner to now refer to the above aspect for reasons of delay cannot be accepted and is contrary to the above undertaking. Having assured GETCO that it would not seek extension and shall commission within time, no extension can be sought on this account.

3.27. The contention of the Petitioner that the undertaking does not impact the case is not correct. The Petitioner had specifically agreed to commission within time, and the said undertaking was given with full knowledge on 28.11.2024. Therefore, as on said date, the Petitioner had not considered that there would be any delay in the project. The Petitioner cannot now claim events prior to such date as reasons for delay.

3.28. It is further denied that the waiver can be only of contractual right. There can be waiver of statutory rights also. Even otherwise, the issue is not of waiver of right to use but that the Petitioner would not ask for extension and the assurance that it would complete within time. If the Petitioner as on 28.11.2024 had undertaken to commission within time, it clearly means that there was no delay at such time.

Re: Delay in issuance of final estimate

3.29. The Petitioner has sought to claim a delay in issuance of final estimate as reason for extension which cannot be accepted. The final estimate is issued after joint survey and based on the work to be carried out. This is also clear from the Letter dated 18.07.2024 providing the estimate initially. Generally, once the layout and drawings are submitted and approved, the final estimate is issued by GETCO which is paid by the Stage II Grantee. This is not only for the Petitioner but for all Grantees. The same is not a reason for delay in work being carried out by the Grantee.

3.30. Even otherwise, the Petitioner has vaguely referred to the issue without placing all relevant facts:

a. On 31.12.2024, the representative of the Petitioner had telephonically approached the Sub-division (GETCO field office) regarding joint visit and a meeting. This was time taken by the Petitioner

b. A meeting was held on 08.01.2025 at 220 kV Savarkundla sub-station where various aspects were discussed.

c. GETCO (field office) vide email dated 13.01.2025 had sent the sub-station layout copy for drawing correction work for submission to be made to Head office. This email was replied by the Petitioner only on 28.01.2025. However, the same required correction and accordingly the issue was discussed telephonically and thereafter the Petitioner submitted the drawing vide email dated 05.02.2025.

d. After receiving final confirmation regarding Layout drawing telephonically by the Petitioner to GETCO field Office, the quantities for Final Estimate has been prepared as per tentative Lay out submitted by Petitioner and then Final Estimate was prepared by GETCO field Office and is considered internally by various departments of GETCO and after scrutiny forwarded to GETCO Projects department at corporate office, and after that GETCO R&C Issued Final estimate to the Petitioner on dated 12.05.2025. Since this pertains to a 220 kV substation, GETCO was required to verify the layout and technical parameters both at the field level and at the head office level.

3.31. The Petitioner has only referred to estimate issued on 12.05.2025 but not the intervening facts and its own submission of the drawings. There were delays on part of the Petitioner as well.

3.32. It is stated that the issuance of final estimate does not in any manner restrict the Petitioner from undertaking other work including the approvals for dedicated transmission line and the arrangement of contract etc. There is no reason why the Petitioner had to wait to apply for approvals under Section 68/164 or ROW Clearance for the line. As already submitted, the issuance of final estimate is a process for all Grantees and it is not the case that such grantees cannot undertake any work until the final estimate is issued.

3.33. The aspects of land sought to be raised by the Petitioner is not correct. The acquisition of land for the power project is not affected by the above aspects.

3.34. The Commission may therefore consider the above factual aspects and submissions while considering whether any extension can be granted to the Petitioner.

4. Rejoinder of the Petitioner to the reply of the Respondent:

4.1. The Respondent in its Reply has admitted that Stage-II approval was granted to the Petitioner for 40 MW capacity for wind power project under captive mode on 29.06.2024 with a timeline of 1.5 years to complete the evacuation system which expires on 29.12.2025. The Petitioner has submitted the grounds for seeking extension of 365 days beyond 29.12.2025.

4.2. The Respondent has also admitted that the Tariff order recognizes the power of the Commission to grant extension. The Tariff Order provides that:

"If the Wind Power Developer (as Generator/ Consumer/ Licensee) fails to commission the entire allocated evacuation system along with bays and metering System within stipulated time-period due to unforeseen reasons, they may approach to the Commission seeking for extension of time period."

Therefore, the Commission is well within its power to adjudicate the present proceedings.

Re: Delay caused due to Banking facility Clarification

4.3. It is the contention of the Respondent that the Petitioner has not shown as to how lack of clarity, if any, regarding banking regulation impacted the evacuation system to be laid down by the Petitioner. As per the concerned authorities in Gujarat, the Regulation 17.6 of the GEOA Regulation, 2024 meant that it allows banking only for the quantum of energy which was above 30% of total consumption. This interpretation severely impacted the RE developers in the state.

4.4. Hon'ble APTEL In "Tamil Nadu State Electricity Board v. Tamil Nadu Electricity Regulatory Commission and Others" (Order in Appeal No. 98 of 2010 dated 18.03.2011), held that electricity is a commodity which cannot be stored; it is to be consumed at the very instant it is produced; generation by Wind Energy Generators solely depends upon availability of wind at a particular velocity; in other words it is periodical in nature; its generation is not constant even during a period of 24 hours of a day; it could be possible that it generates electricity when captive user does not require it; in such a case energy generator banks it with the distribution licensee who supplies this energy to its consumers at the applicable tariff; however, for returning the banked energy, the licensee may have to procure additional electricity from other sources.

4.5. Hon'ble Tribunal in "Roha Dyechem Private Limited v. Maharashtra Electricity Regulatory Commission & Others" (Order in Appeal Nos. 319 of 2018, 288 of 2019, 377 of 2019 & 378 of 2019 dated 27.04.2021), held that, in the case of conventional plants (Non renewable Energy Sources) i.e., coal-fired, gas-fired etc, the generation follows the load which means the generation of electricity is in accordance with the requirement of the load; if the load is more, generation is increased to match with the load and when the load is less, then the generation is reduced to match with the load; this is achieved by controlling the fuel injection as per the load requirement; however, in case of renewable energy sources, the situation is different as the generation depends on the availability of wind and solar which means that the RE Generators generates only when adequate wind and sunlight is available is such that the RE Generator generates electricity during periods when it is not required by the captive user, the electricity has to be consumed as and when it is generated; although there are technologies where the electricity can be stored in a small quantum, however the technology for storing electricity on a large-scale on a commercial basis is still under development; and it is for this reason that the provision of banking of energy generated by the RE Generators has been made.

4.6. A beneficial enabling provision which had allowed banking to be provided even for more than 30% of consumption was interpreted as no banking facility till 30%. This confusion was prevailing amongst various electricity regulatory commission, and this issue was discussed in first meeting for working group on Green Energy Open Access held in the month of September 2022.

4.7. It is a known fact that the State having favourable banking policies get more investment. A report by a leading renewable energy magazine "Mercom" has published an analysis indicating states having favourable banking policies see more growth than the state not having favourable policies.

4.8. The interpretation by competent authority in Gujarat had severe impact because a plant cannot be conceptualized if banking is not provided for 0 to 30% of the consumption and support above than 30% is required only for few months. Prior to clarification by GUVNL, it can be safely concluded that there was no banking for consumption below 30% which can be further simplified by stating that no infrastructure support for the renewable power plant was there till the issuance of clarification by GUVNL.

4.9. The Respondent has submitted that the issue regarding Banking Facility Clarification was not applicable on the Petitioner since the Petitioner did not mention regarding the same at the time of signing of undertaking. It is however submitted that the undertaking signed on 28.11.2024 was restricted merely to the fact that the Petitioner is unable to start construction due to grant of sharing connectivity and the project being at standstill due to inactivity of lead generator. Therefore, there was no reason whatsoever for the Petitioner to mention the same at the time of signing of undertaking.

RE: Delay in Delivery of Transformers due to Market Demand Crisis

4.10. It is the contention of the Respondent that the Petitioner has merely claimed that it has been informed of delay in delivery of transformers without any substantiation of the same. The alleged supply chain disruptions and delays in manufacturing have not been substantiated.

4.11. In the meeting held on 21.12.2023 by Ministry of Power, the issue of transformer and reactor shortages was discussed in detail. Representatives from the Indian Electrical and Electronics Manufacturers' Association (IEEMA) explained that due to a high number of tenders being released in 2023, the industry's manufacturing capacities have already been booked for 2024. As a result, manufacturers are unable to supply Extra High Voltage (EHV) transformers and reactors (400 kV and above) before March 2025. Additionally, the transformer industry is facing significant challenges due to a heavy reliance on imports for key components like CRGO and Copper, contributing to price fluctuations and supply chain constraints.

4.12. Despite proactive efforts to follow up with suppliers and procure the necessary materials, these unforeseen supply challenges have caused substantial setbacks, making it impossible to meet the original project timelines due this unforeseen circumstance. The petitioner, like the industry at large, faces delays in fulfilling transformer orders due to limited manufacturing capacity, compounded by geopolitical factors and price volatility of essential materials. These issues were not anticipated during the project's planning phase, highlighting how such disruptions are beyond the control of the petitioner.

4.13. On 12.01.2024, The Ministry of Power issued Minutes of Meeting conducted on 21.12.2023 wherein the issue regarding shortage of transformers was discussed. It was categorically stated that transformers availability is difficult atleast till March, 2025 for huge orders.

4.14. It appears that the Respondent has failed to consider the dictionary meaning of Force Majeure. According to Black's Law Dictionary, force majeure means "an event or effect that can be neither anticipated nor controlled, especially an unexpected event that prevents someone from doing or completing something that he or she had agreed or officially planned to do". In this case, it is rather under the statutory procedure that the Petitioners were required to follow a timeline, which could not be done due to Force Majeure events/ events beyond the control of the Petitioners.

4.15. In terms of the Tariff Order, the Commission is empowered to extend the Commissioning of the evacuation system on the ground of unforeseen reasons. The Respondent, by way of its reply to the present Petition, has relied on the parameters of Force Majeure to submit that delays of unavailability of materials or delays by contractors/sub-contractors is not considered force majeure events. However, in terms of the Applicable Law (i.e. Tariff Order), the Commission can extend the commissioning even on occurrence of unforeseen reasons. The test of Force Majeure is much stricter as compared to the test of Unforeseen Reasons. The Petitioner has relied upon the principle of Force Majeure to demonstrate that the Petitioner's case is also covered under a much stricter parameter (Compared to requirements to be made in terms of the Tariff Order).

4.16. Section 56 of the Indian Contract Act, 1872 provides that an agreement to do an act impossible in itself is void. It is a matter of record that the activity of Transmission is a regulated Act. The Detailed Procedure as well as the Tariff Orders are binding on both the Transmission Licensee as well as the Generators even if the contract says otherwise. It is further submitted that the Commission has itself inserted a relief clause on occurrence of unforeseen reasons and therefore, the same cannot be negated by the Respondent.

4.17. Therefore, it cannot be denied that the Petitioner was impacted by the global Transformer crisis and therefore, the extension must be granted to the Petitioner on this ground alone.

RE: Problems faced in Sharing Infrastructure and delay in Allocation of Separate Bay space for Feeder Bay

4.18. The Respondent under the Reply has falsely submitted that since the Petitioner has signed the undertaking stating that the Petitioner will "Commission the evacuation system within stipulated time and shall not ask for further extension of project", therefore, the Petitioner cannot now seek extension for the same. However, it is submitted that the Petitioner had entered into the undertaking in a good faith that the Petitioner will commission the Project within the timeline given under the Tariff Order and the Petitioner made its best efforts towards the same. However, due to occurrence of the unforeseen events including the delay in issuance of Final Estimate, the Petitioner's ability to commission within the timeline was severely impacted.

4.19. The Respondent failed to convince over the fact that the allotment of a separate feeder bay by the respondent was a conditional allotment depending on the signing of undertaking by the Petitioner while stating that it will not seek any extension of the project.

4.20. The Petitioner was suffering delay of each day after the grant of connectivity on sharing basis due to inactivity of the lead generator and therefore had no other option but to sign the undertaking in order to be allotted space for separate 66kV Feeder bay at 220 KV Savarkundla Substation. Therefore, it can be stated that the same was signed under duress since the Petitioner had no other way to complete the project in time. It is a settled law that an undertaking signed under duress cannot be considered to give advantage to the party in who's favor it has been signed.

4.21. The Respondent has submitted that waiver can be against statutory rights also. However, it is a settled law that a waiver in derogation of a statutory right is not favoured, and a waiver will be inoperative and void if it infringes on the rights of others. Under Section 86(1)(f), the Commission is empowered to adjudicate the disputes between the

Generator and the licensee and since there is disagreement between the parties for the extension, the same can be rightly adjudicated before this Hon'ble commission irrespective of the undertaking which was nonetheless filed in duress.

RE: Delay in issuance of Final Estimate

4.22. The Respondent has submitted that Final estimate is issued after joint survey and is based on the work to be carried out. Once the layout and drawings are submitted and approved, the final estimate is issued by GETCO. Issuance of final estimate does not in any manner restrict the Petitioner from undertaking any work.

4.23. It is submitted that even if assuming but not admitting that the contentions of the Respondent are right, it is clear from Annexure-C filed by the Respondent that the Petitioner had submitted the proposed layout drawings to the Respondent on 28.01.2025 and yet it took almost five months for the Respondent to issue the final estimate leading to further delay in the project attributable to the Respondent.

4.24. The contention of the respondent that the estimate does not restrict the working of the project is incorrect since without the final estimate, it was not possible for the Petitioner to seek clearance under Section 68 and Section 164 of the Electricity Act, 2003. Thereby, the Petitioner was not able to start the installation work on feeder bay or seek RoW Clearance.

4.25. Therefore, the delay caused in the project due to delay in issuance of final estimate was attributable to the Respondent and thus the Petitioner must be granted extension on this ground alone.

4.26. The Petitioner has been making an effort to complete evacuation infrastructure within the timeline. However, it failed to do so due to occurrence of the Force Majeure Events.

4.27. The Commission in the tariff order has provided that extension will be granted for unforeseen events. For meeting the test of unforeseen events, one has to demonstrate only that events could have been anticipated at the time of the grant of Stage-II connectivity and the present petition ought to be allowed in favour of the Petitioner.

4.28. Therefore, the Commission may kindly allow the present Petition filed by the Petitioner and grant extension in the construction and commissioning of evacuation infrastructure, in the interest of justice and equity.

Commission's Analysis

5. Heard the parties. The Petitioner is setting up 40 MW Wind Power project under captive mode to be connected at 220 KV Savarkundla Sub-station of the Respondent, GETCO.

5.1. The Commission, vide Order No. 05 of 2024 dated 31.08.2024 framed the tariff framework for procurement of power from Wind Turbine Generators and other commercial issues for the State of Gujarat. As per Para 3.8 of the said Order, the Wind Project Developer is required to furnish a Bank Guarantee (BG) of Rs. 10 Lakhs / MW to GETCO to ensure the commissioning of the evacuation infrastructure within the prescribed timeline. Relevant extract of the Para 3.8 is reproduced hereinbelow:

"3.8 Security Deposit

…….

The Wind Power Project Developer shall be required to provide Bank Guarantee @ 10 lakhs per MW to GETCO based on allotment of transmission capacity and in case the developer fails to commission the Hybrid capacity within the time-period mentioned hereunder, GETCO shall encash the Bank Guarantee.

Sr. No.	*RE capacity in MW*	*Period for commissioning the entire evacuation line along with bays and metering system*
1.	*1MW to 100 MW*	*12 months from the date of allotment of transmission capacity*

2.	*>100 MW to 200 MW*	*15 months from the date of allotment of transmission capacity*
3.	*>200 MW to 400 MW*	*18 months from the date of allotment of transmission capacity*

The Wind Power Project Developer shall ensure and prove that the Evacuation System consist of Transmission and /or Distribution System shall be ready prior to SCOD or aforesaid timeframe, whichever is earlier. Failure to it, the project developer is not eligible to get any waiver in Liquidated Damages payable by it, in terms of respective Agreement/ PPA.

The Wind Power Project Developer shall commission the project for at least 10% of the allotted capacity within one month of charging the evacuation line or as per timeframe stipulated table above, 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. Further, STU shall include such cancelled capacity in the list of spare available capacity for RE integration to be published on their website for prospective consumers.

If the Wind Power Project Developer (as Generator / Consumer/ Licensee) fails to commission the entire allocated evacuation system along with bays and metering System within stipulated time-period due to unforeseen reasons, they may approach to the Commission seeking for extension of time period.

In case of Wind-Solar Hybrid Project set up under competitive bidding route, in that case, the aforesaid provision shall be governed by the provisions of approved bid documents /PPA."

Thus, the Order No. 05 of 2024 dated 31.08.2024 provides statutory rights to the Wind project developer to approach the Commission if it fails to commission the entire allocated evacuation system along with bays and metering System within stipulated time-period due to unforeseen reasons.

5.2. The Commission approved the Procedure for Grant of Connectivity to projects based on Renewable Sources to Intra-State Transmission System vide its approval dated 07.01.2023 wherein Clause 10.2 provides that Stage-II connectivity grantees are required to complete the dedicated transmission line, bays, and bus-bar within the timeline specified by the State Commission, failing which the Stage-II Connectivity shall be revoked, and the Bank Guarantee shall be encashed.

5.3. The present petition filed by the petitioner for declaration of unforeseen events occurred in construction of the evacuation line alongwith bay and metering system for evacuation of 40 MW wind power generated from petitioner's power plant due to following events.

(1) Lack of Banking facility clarification

(2) Delay in Transformer deliveries due to market demand crisis

(3) Problems faced in sharing of Evacuation Infrastructure with the Lead Generator and delay in allocation of separate space for feeder bay to the Petitioner by the Respondent.

(4) Delay in issuance of Final Estimate on behalf of the Respondent, after the allotment of separate space for installation of 66 KV Feeder Bay and delay in permission under section 68 and 164 of the Electricity Act,2003.

5.4. The respondent contended that the Petitioner was granted Stage-I & Stage-II connectivity of 40 MW Wind Power Project at 220 KV Savarkundla Sub-station of the GETCO on 29.06.2024 under the approved connectivity procedure dated 07.01.2023. As per the provisions of approved connectivity, the RE project developer is required to complete and commission the entire evacuation system along with metering arrangement within the timeframe specified in the applicable tariff order of the Commission. The Petitioner has been granted the connectivity on 29.06.2024 by the Respondent at 220 KV Savarkundla Sub-station. The Petitioner is seeking 12 months extension and therefore as per the Petitioner, the time for completion would extend beyond 29.12.2025, which has to be considered by the Commission in terms of the Detailed Procedure read with Tariff Order 5 of 2024 dated 31.8.2024. It is the responsibility of the Petitioner to demonstrate the justifications seeking for extension and the burden of proof in this regard lies on the Petitioner and the Petitioner is required to substantiate its claim, and the Commission may verify the same. If there was any default or imprudence on part of the Petitioner, the Petitioner cannot be allowed extension.

5.5. The Petitioner submitted that it has acted prudently to compete the evacuation infrastructure and the wind power project within the specified timeframe, as of date, it has acquired 100% land for the project as well PSS and also placed various orders for procurement of plant and machineries and construction of the project. However, the same is delayed due to various unforeseen events not to be attributable to the Petitioner and therefore the petitioner is seeking 12 months extension beyond the timeframe applicable as per the connectivity agreement / approval to complete and commission the evacuation infrastructure.

5.6. The undisputed facts of the case are as under:

(i) The petitioner is RE generator developing/ setting up 40 MW wind power project to be connected with 220 KV Savarkudnla Sub-station of the Respondent, GETCO.

(ii) The petitioner has applied for stage I & stage II connectivity to the respondent on 03.05.2024.

(iii) The petitioner has submitted bank guarantee of Rs.20 crores to the Respondent with expiry date of 30.04.2026 and claim period upto 30.04.2027.

(iv) On 29.06.2024, the Petitioner was granted with Stage-I and Stage-II connectivity by the Respondent for 40 MW wind Power Plant for Captive purpose at 220 KV Savarkundla SS on sharing basis with lead Generator being M/S Green Prairie Energy II Private Limited **("Lead Generator")** who was granted stage-II connectivity for 30 MW vide Letter dated 23.07.2023 by the Respondent.

(v) On 18.07.2024, the Respondent issued the Provisional Estimate of Supervision Charges to the Petitioner for erection of 66 KV Metering Bay for evacuation of 40 MW Wind Power evacuation at 220 KV Savarkundla (GETCO) S/S *through Sharing mechanism* with Lead Generator who had been granted Stage-II connectivity i.e. from Wind Power Station under Option-3.

(vi) The Petitioner, vide letter dated 09.08.2024, paid the supervision charges of Rs. 74,404/- to the Respondent vide Demand Draft.

(vii) On 16.08.2024, the Petitioner entered into a connectivity agreement and O&M Agreement with the Respondent for establishing connectivity of 40 MW Wind Power Project at 66 KV level with 220 KV Savarkundla Substation of GETCO.

(viii) On 23.08.2024, the petitioner requested the Executive Engineer (Construction Division) GETCO, Amreli for a joint site visit so that sharing agreement can be signed between the Petitioner and the Lead Generator M/S Green Prairie Energy II Private Limited as per GERC approved procedure

(ix) On 11.09.2024, the Petitioner submitted a letter to the Respondent informing the site status of the Lead Generator M/S Green Prairie Energy II Private Limited wherein the Petitioner stated that the lead generator has not started any project activity and has not purchased any land for pooling substation. The Petitioner showed its readiness for starting the project activity and stated that they want to initiate the process of land acquisition for pooling Sub-station, which is getting delayed due to non-readiness of the lead generator.

(x) On account of non-readiness of the Project of the Lead Generator, the Petitioner vide letter dated 24.09.2024, requested the Respondent, GETCO to grant a separate space to the Petitioner for construction of bay and evacuation line as a separate lead generator or permit the Petitioner to construct a separate evacuation line and bay.

(xi) On 26.11.2024, the Respondent, vide their letter dated 26.11.2024, issued space to the Petitioner at GETCO's 220 KV Savarkundla Substation for installation of separate 66 KV Feeder Bay.

(xii) The Petitioner requested for the issuance of Final Estimate for the space allocated for installation of separate 66 KV Feeder Bay on 26.11.2024.

(xiii) On 17.01.2025, the Respondent sent an email to the Petitioner seeking proof of ownership of balance 50% land area.

(xiv) On 21.01.2025, the Petitioner submitted that 17 out of 19 lands have been acquired and thereby submitted Title Clearance Report and DILR Mapni Sheet to the Respondent.

(xv) On 12.05.2025, the Respondent issued the Final Estimate to the

Petitioner for erection of 66KV Feeder Bay for evacuation of 40 MW Wind Power evacuation at 220 KV Savarkundla Substation of GETCO.

(xvi) On 17.05.2025, the Petitioner, made the payment of the final estimate to the Respondent, GETCO.

(xvii) On 17.05.2025 i.e. on same day of payment of final estimate, the Petitioner applied for the State Government Approval under Section 68 and Section 164 of the Electricity Act, 2003 for laying 66 KV S/C Transmission line from PSS to GETCO S/S vide application reference No. ELA/2025/273.

6. Now, we deal with the unforeseen events pleaded by the Petitioner as grounds for seeking 12 months extension.

6.1. The Petitioner has sought extension in completion of evacuation infrastructure along with metering arrangement based on following unforeseen events:

I. Lack of Banking facility clarification.

II. Delay in Transformer deliveries due to market demand crisis.

III. Problems faced in sharing of Evacuation Infrastructure with the Lead Generator and delay in allocation of separate space for feeder bay to the Petitioner by the Respondent.

IV. Delay in issuance of Final Estimate on behalf of the Respondent, after the allotment of separate space for installation of 66 KV Feeder Bay.

7. Delay occurred due to Banking facility clarification.

Petitioner's submission

7.1. 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.

7.2. The 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.

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

7.4. 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.

7.5. GUVNL issued a clarification on banking provisions after receipt of clarification from the MoP on 31.08.2024. Therefore, until 31.08.2024, the Petitioner were unable to carryout project development work due to uncertainty about the banking affecting the designing of the project.

Respondent's submission

7.6. 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.

7.7. The Petitioner has not shown how lack of clarity in banking regulations 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

7.8. We note that the Petitioner has raised the issue that Regulation 17 of the Green Energy Open Access Regulations notified by the Commission stating that 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.

7.9. Thus, the uncertainty until 31.08.2024 affected the development of project in the State. 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.

7.10. We note that the contention of the Petitioner is that there is regulatory vacuum until 31.08.2024 on account of the banking permissible under Green Energy Open Access Regulations is concerned, we note that the Petitioner had applied for connectivity and evacuation of power from its 40 MW Wind Power Project on 03.05.2024. The Respondent GETCO had granted approval for Stage-I and Stage-II connectivity for 40 MW Wind Power Project on 29.06.2024. The Respondent had issued provisional estimate for supervision charge for erection of 66 kV feeder bay for 40 MW Wind project of the Petitioner on 18.07.2024 and the same was paid by the Petitioner on 09.08.2024. The connection agreement was executed between the Petitioner and the Respondent on 16.08.2024. The bank guarantee was paid by the Petitioner on 21.03.2024. The aforesaid facts transpires that the claim of the Petitioner that the regulatory vacuum on banking aspects started from on 13.02.2024 to 31.08.2024 and 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 29.06.2024, the connectivity agreement was executed on 16.08.2024 and bank guarantee was paid by the Petitioner on 03.05.2024. 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.

7.11. We also note that the Petitioner has sought connectivity for evacuation of 40 MW wind power which is permissible based on the voltage capacity of the line on which such power evacuation is permissible. Thus, the transmission infrastructure and bay facility which required to be created by the Petitioner is at the voltage capacity of such infrastructure i.e. at 66 kV/66 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 40 MW wind power project of the Petitioner.

7.12. 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 transmission infrastructure.

7.13. We also note that the connectivity which was applied and approved by the Respondent GETCO remains same of 40 MW from the date of application to till the last date of hearing before the Commission. There is no document on record specifying that the Banking provisions lead to revisit by the petitioner for installation of capacity which was initially envisaged and later on changed to the Banking facility provision of GEOA Regulations of the Commission.

7.14. 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 not a ground for grant of extension

8. Now, we deal with the issue raised by the Petitioner that there is delay in delivery of power transformer:

Petitioner's Submissions:

8.1. The petitioner submitted that the delay in the delivery of Transformer can be attributed to an ongoing market demand crisis and significant disruptions in the global supply chain, both of which constitute unforeseeable events that lie beyond the Petitioner's control. The current global supply chain issues, which have affected industries worldwide, have resulted in severe shortages of critical components, including the specific circuit breakers required for this Project. Despite the Petitioner's best efforts, including proactive and continuous follow-up with the Original Equipment Manufacturers (OEM) suppliers, there has been no feasible way to expedite the delivery process within the initially anticipated timeframe.

8.2. In the meeting held on 21.12.2023 by Ministry of Power, the issue of transformer and reactor shortages was discussed in detail. Representatives from the Indian Electrical and Electronics Manufacturers' Association (IEEMA) explained that due to a high number of tenders being released in 2023, the industry's manufacturing capacities have already been booked for 2024. As a result, manufacturers are unable to supply Extra High Voltage (EHV) transformers and reactors (400 kV and above) before March 2025. Additionally, the transformer industry is facing significant challenges due to a heavy reliance on imports for key components like CRGO and Copper, contributing to price fluctuations and supply chain constraints.

8.3. This situation mirrors the petitioner's predicament, where delays in transformer deliveries are largely due to global supply chain disruptions and market demand crises. Despite proactive efforts to follow up with suppliers and procure the necessary materials, these unforeseen supply challenges have caused substantial setbacks, making it impossible to meet the original project timelines due this unforeseen circumstance. The petitioner, like the industry at large, faces delays in fulfilling transformer orders due to limited manufacturing capacity, compounded by geopolitical factors and price volatility of essential materials. These issues were not anticipated during the project's planning phase, highlighting how such disruptions are beyond the control of the petitioner.

8.4. It is to note that these disruptions were entirely outside the Petitioner's control and that every effort has been made to minimize their impact. The Petitioner's contractor has acted in good faith and even placed purchase orders for the transformer and other raw materials to various vendors.

Respondent's submission:

8.5. As per the claim of the Petitioner itself, it was known in December 2023

/January 2024 itself that there was a shortage of transformers and reactors. The Petitioner is seeking to rely on the meeting by Ministry of Power dated 21.12.2023 wherein the Petitioner itself states that the manufacturing capacity was already booked for 2024 and therefore manufacturers are unable to supply before March 2025. Therefore, when the Petitioner received the Stage II Connectivity on 29.06.2024, it was aware of the issues. The Commission may therefore consider whether this can be considered as unforeseen reasons.

8.6. It is the responsibility of the Petitioner to arrange for all inputs/equipment etc and cannot seek extension merely because there has been a delay. This cannot be an unforeseen reason. Further in the present case, the Petitioner has not even demonstrated any actual delay but is only relying on vague assertions and the meeting dated 21.12.2023 (though no document has been produced). Further no aspect of whether there was any penalty claimed from the contractor. The Petitioner has not provided any details of when it had placed the order and what was the initial scheduled date and what was the delay and the reasons for the delay. If there is any delay or default on part of the Petitioner, the same cannot be claimed as reasons for extension.

8.7. The claim of global supply chain disruption is not substantiated with documentary evidence by the petitioner. The delay by its contractor cannot be the basis of claiming extension. The claim of proactive follow up is also not substantiated.

8.8. Further, the delays or unavailability of materials or delays by contractors/sub-contractors is not considered force majeure and has been excluded in case of PPAs. The Commission may consider whether the same can be a basis for consideration of extension of time and whether delays in delivery can be seen as unforeseen reasons. Further even if it is to be considered, the Petitioner has to demonstrate that the same was indeed unforeseen and was a sudden and new situation. It cannot be that if the situation of high market demand was already existing, the Petitioner can still claim the same to be unforeseen.

Commission's Analysis

8.9. We note that the Petitioner has claimed that there is Force Majeure event occurred due to delay in supply of power transformer and Reactors for the project due to disturbance in supply chain of power transformer globally which is also recognized by the Ministry of Power is concerned, we note that the power transformer is one of the important equipment installed at power plant for conversion of input power on a higher voltage level and lower current for injecting such power into the grid for supply of such power generated from power plant into the grid by the project developer.

8.10. We note that the submission of the Petitioner that on 12.01.2024 the Ministry of Power, Government of India, issued Minutes of Meeting conducted on 21.12.2023 wherein the issue regarding shortage of power transformers was discussed and issued guidelines for the RE project developer that there is shortfall in availability of 400 KV and above power transformers, its material, etc. which led to delay in supply of material which requires to be installed by the project developer like Petitioner so that the plant will be commissioned in time and available power can be evacuated from such plants economically without affecting the power plant's efficiency is concerned that the solar power plant set up by the petitioner is 40 MW capacity and evacuation of power from such plant is at 66 KV voltage level. Thus, the size of power transformers are related to 66 KV connected power plant and not 400 KV or above capacity of the plant. Hence, the contention of the petitioner is not valid and not acceptable. Hence, the same is rejected.

8.11. We note that it is the duty of the Petitioner who is one of the project developers and obtained connectivity for 40 MW at GETCO S/s for evacuation of power generated from wind power plant and consumed by the Procurer under third party sale or captive mode to construct the project as well as transmission system in stipulated time. The shortfall in availability of material like power transformer due to demand in the market as well as supply chain disruption affected to availability of such power plant is dependent on when the petitioner put up such order to supplier and what are the terms and conditions of such order. It is a separate and distinct contract between the contractor and the transformer manufacturer which is not qualified for extension of the limit of transmission system sought by the petitioner.

8.12. We also note that the petitioner has not substantiated its claim with documentary evidence specifying when order was placed for delivery of such transformer agreed to supply by the OEM, what is the penalty if there is any delay either supply of material or ready to accept by the proceeds etc. In absence of such documentary evidence on record by the petitioner, the claim of delay caused, if any, in respect of power transformer due to prevailing market conditions with regard to availability of such transformer, etc. cannot be considered a ground for extending the time limit of transmission system as sought by the petitioner and the same is not accepted and rejected.

9. Now we deal with issue raised by the Petitioner regarding (i) problems faced in sharing of **Evacuation Infrastructure with the Lead Generator**, (ii) delay in **allocation of separate space for feeder bay to the Petitioner** by the Respondent and (iii) **the implication of Undertaking** submitted by the Petitioner as a condition put forth by the Respondent to allocate separate space for the feeder bay.

Petitioner's submission:

9.1. The petitioner strictly adhering to the timelines prescribed under the Detailed Procedure as well as the applicable Tariff Order. The Respondent had allocated Bay to some other developers who was declared as lead generator and the petitioner was allocated the bay on sharing basis with lead generator.

9.2. The Petitioner approached the Respondent as well as the Lead Generator from time to time in order to co-ordinate for site visit and signing of the sharing agreement. The same is evident from Petitioner's letter dated 23.08.2024.

9.3. The Petitioner, by way of its letter dated 11.09.2024, informed the

Respondent regarding the site status of the Lead Generator and expressed its willingness to expediate the process of land acquisition for PSS at the earliest.

9.4. The Petitioner's project was getting delayed due to inaction on part of the Lead Generator; therefore, the Petitioner requested the Respondent vide letter dated 24.09.2024 to take action against lead generator and also requested the Respondent to issue a separate space to the Petitioner for installation of Feeder Bay.

9.5. It is only on 28.11.2024, the separate space for installation of 66 KV Feeder Bay was granted to the Petitioner by the Respondent. It is submitted that the allotment of a separate feeder bay was conditional upon submitting the undertaking to the Respondent that the evacuation system will be commissioned within stipulated time without seeking time limit extension. Even though the persistent inaction of the lead generator, the Petitioner had no alternative but to submit the Undertaking in order to secure the bay.

9.6. The Petitioner submitted the undertaking in a good faith that the Petitioner will commission the Project within the timeline given under the Tariff Order and the Petitioner made its best efforts towards the same. However, due to occurrence of the unforeseen events including the delay of over 5 (five) months in issuance of Final Estimate by the Respondent to petitioner, the Petitioner's ability to commission within the timeline was severely impacted.

9.7. It is further submitted that waiver of the right to sue can only be given as a contractual right. However, the petitioner prayer for extension does not arise from the contract but from tariff order of the Commission which is legal and Statutory right.

9.8. The Petitioner, while submitting the said undertaking, requested the Respondent to issue the Project Estimate for installation of the 66 KV Feeder Bay at 220 KV Savarkundla Substation at the earliest, which shows bonafide attempt on part of the Petitioner to complete the evacuation infrastructure expeditiously.

9.9. The initial delay from the date of grant of connectivity on 29.06.2024 was entirely attributable to the inaction on part of the Lead Generator. The petitioner further affected due to delay in allocation separate space for feeder bay only on 26.11.2024 by the Respondent and was beyond the control of the Petitioner.

Respondent's submission

9.10. It is stated that initially the Connectivity to the Petitioner was granted on sharing basis. Accordingly, the Petitioner was to submit the Agreement with the lead generator as per Format 6 of the Detailed Procedure. However, no such agreement has been submitted. It is further stated that the Petitioner has referred to attempts with Green Prairic Energy II Private Limited which is not in the knowledge of the Respondent.

9.11. After various discussions and meetings, on request of the Petitioner, GETCO vide Letter dated 26.11.2024 decided to allot the space to Petitioner for installation of separate bay. The Petitioner had vide Letter dated 28.11.2024 submitted an Undertaking dated 28.11.2024 to the Respondent agreeing that it shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit.

9.12. The attempt of the Petitioner to now claim extension for aforesaid reasons of delay cannot be accepted and is contrary to the undertaking submitted by the Petitioner itself. Having assured GETCO that it would not seek extension and shall commission within time, no extension can be sought on this account.

9.13. The contention of the Petitioner that the undertaking does not impact the

Petitioner case is not correct. The Petitioner had specifically agreed to commission of the project within time, and the said undertaking was given with full knowledge on 28.11.2024. Therefore, as on said date, the Petitioner had not considered that there would be any delay in the project. The Petitioner cannot now claim events prior to such date as reasons for delay.

9.14. It is further denied that the waiver can be only of contractual right. There can be waiver of statutory rights also. Even otherwise, the issue is not of waiver of right to use but that the Petitioner would not ask for extension and the assurance that it would complete within time. If the Petitioner as on 28.11.2024 had undertaken to commission within time, it clearly means that there was no delay at such time.

9.15. The aspects of Petitioner's willingness to expedite the process of land acquisition sought to be raised by the Petitioner is not correct. The acquisition of land for the power project is not affected by any in-action on part of led generator.

Commission's analysis:

9.16. We have considered the submission of parties in regard to delay claimed by the Petitioner on the following grounds:

(i) Inaction on part of the Lead Generator with whom the Petitioner was granted connectivity of its 40 MW wind power project on 29.06.2024 on sharing basis by the Respondent.

(ii) Delay in allocation separate space for feeder bay to the Petitioner by the Respondent. The petitioner also raised contentions are also raised with respect to the implications of the Undertaking dated 28.11.2024 submitted by the Petitioner as condition for grant of separate space for feeder bay to the Petitioner as sought by the Respondent on 26.11.2024.

9.17. It is undisputed that the Petitioner was granted stage-II connectivity for its 40 MW wind power project on 29.06.2024 at 220 KV Savarkundla Sub-station on sharing basis with lead Generator M/s. Green Prairic Energy II Private Limited to whom connectivity was earlier granted by the Respondent at 220 KV Savarkundla Sub-station.

9.18. It is the case of the Petitioner that the Lead Generator did not took any action for acquisition of land for establishment of Pooling Sub-station (PSS) and creation of common evacuation infrastructure and the Petitioner was facing delay on daily basis due to inaction on the part of Lead Generator. Therefore, the Petitioner has repeatedly requested to the Respondent, GETCO to either to take up the matter with the Lead

Generator or allocate sperate space to the Petitioner for construction of separate feeder bay.

9.19. We also note that after long time from grant of connectivity and representation of the petitioner that the lead generator had neither procured the land nor started the work for feeder bay allocation to it by GETCO and reminder and requested for grant of separate space and feeder bay at connectivity substation of the respondent vide Letter dated 26.11.2024 decided to allot the space to Petitioner for installation of separate bay. The said letter is reproduced below:

Ref No: CE(R&C)/Sarjan Reality/2076 **Date:** 26/11/2024

To,
M/s Sarjan Realities Private Limited,
AP-81, 1702, 17th Floor,
Mundhwa, Pune.
Maharashtra - 411 036

Sub: Allocation of space for 66 KV Feeder Bay at 220 KV Savarkundla S/s of GETCO

Ref: Your Letter dated 24.09.2024

Dear Sir,

GETCO has granted Stage-II connectivity on 29.06.2024 to Ms Sarjan Realities Private Limited (SRPL) for 40 MW (Wind) at 220 KV Savarkundla at 66 KV level under bay sharing arrangement as per the GERC approved Procedure dated 7.01.2023.

M/s SRPL vide above referred letter has requested for allotment of separate 66 Feeder Bay and agreed to pay estimate towards the same. It is also assured to commission the evacuation system within stipulated time without seeking time limit extension.

Competent authority has examined the request and decided to allot space for the 66 Feeder Bay at 220 KV Savarkundla S/s to M/s SRPL.

This is for your kind information and further needful.

Thanking you,

Yours faithfully

(R.K. Patel)
I/c Chief Engineer (R&C)

9.20. It is also necessary to consider that the Petitioner had vide Letter dated 28.11.2024 submitted an Undertaking dated 28.11.2024 to the Respondent inter-alia agreeing that it shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit. It is necessary to refer the said undertaking which is reproduced below:

"Ref. No.: SRPL/GETCO/PE/Mevasa/2024-25/12 Date: 28/11/2024

To,
The Chief Engineer (R&C)
Gujarat Energy Transmission Corporation Ltd.
5th Floor, Corporate Office Sardar Bhuvan,
Race Course, Vadodara - 390007

Sub: *Submission of Undertaking against allotment of space for 66 kV Feeder Bay at 220 KV Savarkundla Substation of GETCO.*

Ref: *1) GETCO letter no.* ***GETCO/R&C/RE/1332*** *dated* ***18/07/2024*** *against Provisional Estimate of Supervision Charges for erection of 66 kV Metering Bay for evacuation of 40 MW Wind Power Project at 220 kV Savarkundla, GETCO Substation.*

2) GETCO letter no. ***CE(R&C)/Sarjan Reality/2076*** *dated* ***26/11/2024*** *against allocation of space for 66 kV Feeder Bay at 220 kV Savarkundla Substation of GETCO.*

Dear Sir,
We refer to your letter dated 18/07/2024 (referred at 1 above) wherein a Provisional Estimate of Supervision Charges for erection of 66 kV Metering Bay for evacuation of 40 MW Wind Power Project at 220 kV Savarkundla GETCO Substation through Stage-II grantee was awarded to our company M/s Sarjan Realities Pvt. Ltd. on sharing arrangement as per the GERC approved procedure dated 07.01.2023.

In continuation to the grant of connectivity, we were in receipt of a letter from your good office *dated 26.11.2024 (referred at 2 above) wherein your good office has confirmed and allotted a space for 66 kV Feeder Bay at 220 kV Savarkundla GETCO Substation.*

Further to your letter dated 26.11.2024, we hereby submit a notarized copy of Undertaking on Rs. 300 Non-Judicial E-Stamp Paper along with true copy of Board Resolution and Authority Letter for your kind consideration.

We now request your good self to kindly issue the estimate for installation of 66 kV Feeder Bay at 220 kV Savarkundla GETCO Substation at the earliest oblige

Thanking You,
Yours Faithfully,
For Sarjan Realities Private Limited

(Ankur Shah)
Authorized Signatory

Encl- All above

9.21. With consideration of aforesaid facts, it need to be decided; (i) whether the Petitioner is affected in any manner after grant of connectivity to it on 29.06.2024 in creation of evacuation infrastructure due to inaction on part of the lead generator with whom the petitioner was granted connectivity on sharing basis; (ii) Whether the time spent in allocation of sperate space by the respondent to the petitioner for feeder bay is qualified as unforeseen events lead to delay in creation of transmission network by the petitioner and qualify for extension in time for completion of transmission network or not; and, (iii) what is the implications of the Undertaking dated 28.11.2024 submitted by the Petitioner to the Respondent as condition to allocate separate space for feeder bay by the Respondent inter-alia agreeing that it shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit.

9.22. To analyse these issues, it is relevant to refer the connectivity letter dated 29.06.2024 issued by the Respondent GETCO granting the connectivity to the Petitioner, which reads as under:

GUJARAT ENERGY TRANSMISSION CORPORATION LIMITED

No.GECO/R&C/STAGE1000592 Date: 29.06.2024

To
Sarjan Realities Private Limited
AP81, B wing 1`7th Floor, Mundhwa, Pune 411036 Maharashtra
E-mail: manoj.shah@skeiron.com

Sub: Stage-I Connectivity for evacuation 40 MW (Wind) at GETCO 220kV Savarkundla through Stage-II grantee on 66 KV class for Captive.

Dear Sir,

This is in reference to your online application for stage-I Connectivity dated 03/05/2024 which was Registered with the Number STAGE1000592 for Following Location.

Name of Company/Applicant	*Sarjan Realities Private Limited*
Name GETCO Substation	*220kV Savarkundla through Stage-II grantee*
Applied MW for Stage-I	*40.00 MW*
Voltage Class on which connectivity sought	*66 KV*
Type of Project	*Wind*
Purpose	*Captive*

As per the study report, Stage-I Connectivity in respect to your online application is hereby approved as below:

Name of Company/Applicant	*Sarjan Realities Private Limited*
Name GETCO Substation	*220kV Savarkundla through Stage-II grantee*
Applied MW for Stage-I	*40.00 MW*
Voltage Class on which connectivity sought	*66 KV*
Type of Project	*Wind*
Purpose	*Captive*

i) At 220/66 kV Savarkundla (66 kV level) through sharing with Stage-ll grantee switchyard ii) Line/ under ground cable/feeder bay capacity shall be minimum 50 MW per circuit.

Please note that, Stage- Connectivity shall be in accordance with Regulation (4), (5) and (6) of the GERC Connectivity Regulations.

As per the clause 6.4 of procedure for RE Connectivity approved by Hon'ble GERC, The Stage-1 Connectivity grantee needs to apply for Stage-II Connectivity within (i) 6 (six) months from the date of grant of Stage-l Connectivity or (ii) till the date the particular substation gets booked by Stage-II connectivity grantee, whichever is earlier. Thereafter, all the granted Stage-1 connectivity at particular substation, if any, shall stand cancelled. The capacity of Stage-l connectivity not utilized for stage-Il connectivity shall be cancelled on expiry of time frame specified at Para 6.4 of the procedure for RE Connectivity approved by Hon'ble GERC.

Grant of Stage-1 Connectivity shall not create any rights of physical connectivity/bay reservation, etc. in favour of the grantee on Intra-State transmission system. Provided that the Stage-l connectivity grantee who fails to apply for Stage-il connectivity till the location of Stage-l connectivity gets completely booked by Stage II grantee/s the person who has obtained Stage I connectivity shall loose the earlier granted Stage-l connectivity and has to apply afresh for the Stage-I connectivity with the location available on GETCO website.

M/s Sarjan Realities Private Limited shall be abide by the terms and conditions of approval of Hon'ble GERC for Grant of Connectivity to Projects based on Renewable Energy Sources to intra-State Transmission System In case of any abnormal loading on associated grid elements, Mis. Sarjan Realities Private Limited has to back down their injection as per grid requirement during real time operations.

As per study result, it has been observed that by injecting RE generation into grid, voltage level at Limited has to Interconnection point ie. at GETCO substation is getting increased. M/s. Sarjan Realities Private Lake necessary action for providing reactive power requirement to avoid undue voltage rise at grid substation.

M/s. Sarjan Realities Private Limited has not yet identified the drawl points and so network adequacy at drawl points needs to be checked separately through system studies. Also, Mis. Sarjan Realities Private Limited will have to specify details of drawl points well before actual grid connectivity of proposed projects.

M/s. Sarjan Realities Private Limited Shall have to adhere the provisions under the CEA (Technical Standards for Connectivity to the Grid) Regulations, 2007 as amended time to time.

This study is purely an indicative study considering all the generation capacity addition and the transmission network corresponding to FY 2024-2025.

This is for your Information and needful in the matter please.

Thanking you,
Chief Engineer (R&C)

(Dr. A. J. Chavda)
GETCO

Copy to
1.Dy Director, GEDA, 4th Floor, Udhyog Bhavan, Sector-11, Gandhinagar.
2.CE(Project), GETCO, Vadodara. For information and needful please
3.CER & C, Corporate offer, PGVCL/DGVCLUGVCL/MGVCL
4 SE(STU), Corporate Office, GETCO Vadodara.
5.SE(TR), GETCO.
6.EE(Const), GETCO

…….

GUJARAT ENERGY TRANSMISSION CORPORATION LIMITED

No.GECO/R&C/STAGE2000191 Date: 29.06.2024

To
Sarjan Realities Private Limited
AP81, B wing 1`7th Floor, Mundhwa, Pune 411036 Maharashtra
E-mail: manoj.shah@skeiron.com

Sub: Stage-II Approval for grid connectivity and evacuation 40.00 MW (Wind) Power at 220kV Savarkundla through Stage-II grantee substation of GETCO.
Ref:- (1) Your letter application for Stage-I dated 03/05/2024
(2) Stage-I Connectivity Approval No.STAGE1000592 dated 29/06/2024
(3) Your letter application for Stage-II dated 05/05/2024
Dear Sir,

This is in reference to your online application for stage-II Connectivity dated 05/05/2024 which was Registered with the Number STAGE2000191 for Following Location.

Name of Company/Applicant	Sarjan Realities Private Limited
Name GETCO Substation	220kV Savarkundla through Stage-II grantee
Applied MW for Stage-I	40.00 MW

Voltage Class on which connectivity sought	*66 KVKV*
Type of Project	*Wind*
Purpose	*Captive*

As per the study report, Stage-II Connectivity in respect to your online application is hereby ***approved*** *as below:*

Name of Company/Applicant	*Sarjan Realities Private Limited*
Name GETCO Substation	*220kV Savarkundla through Stage-II grantee*
Applied MW for Stage-I	*40.00 MW*
Voltage Class on which connectivity sought	*66 KV KV*
Type of Project	*Wind*
Purpose	*Captive*

The approval is subject to verification of the BG by the respective issuing bank.

Further, for optimum utilization of the transmission asset, it is proposed that the infrastructure created by Mis Sarjan Realities Private Limited will be utilized for connectivity of other RE developers in future.

However, in case any developer selects this substation than Mis. Sarjan Realities Private Limited will have to allow integration of that as following conditions:

- *M/s. Sarjan Realities Private Limited will provide space for 66 KV line bay equipments and bus-bar in switchyard as well as control room, free of cost to subsequent RE developer. The cost of connectivity equipments at Sarjan Realities Private Limited switchyard will be borne by prospective developer.*

- *Being a main developer, M/s Sarjan Realities Private Limited shall create entire infrastructure in consultation with GETCO. Also M/s Sarjan Realities Private Limited and other RE developer shall sign a separate agreement for maintenance of common infrastructure and other issues.*

- *For all the purposes including scheduling, forecasting etc. both the developers shall be treated as separate project.*

- *The subsequent RE developer shall share cost of 66 KV line from M/s Sarjan Realities Private Limited to GETCO substation with M/s Sarjan Realities Private Limited.*

- *M/s Sarjan Realities Private Limited has to lay line including u/g cable, if any and associated bay equipments with minimum capacity of 70 MW per circuit. For balance/future capacity, separate feasibility study will be carried out.*

M/s Sarjan Realities Private Limited shall be abide by the terms and conditions of approval of Hon'ble GERC for "Grant of Connectivity to Projects based on Renewable Energy Sources to Intra-State Transmission System.

The connectivity for the above project of M/s.Sarjan Realities Private Limited with respective GETCO substation is to be proposed with S/C line as (N-1) contingency criteria is not applicable for immediate connectivity of RE projects

Since the connectivity for the above project is through S/C line, in case of planned/forced outage, project of M/s Sarjan Realities Private Limited will be isolated from the grid. M/s Sarjan Realities Private Limited has to submit the undertaking for agreeing to the above point.

In case of any abnormal loading on associated grid elements, M/s. Sarjan Realities Private Limited has to back down their injection as per grid requirement during real time operations.

As per study result, it has been observed that by injecting RE generation into grid, voltage level at interconnection point i.e. at GETCO substation is getting increased. Mis Sarjan Realities Private Limited has to take necessary action for providing reactive power requirement to avoid undue voltage rise at grid substation.

M/s Sarjan Realities Private Limited has not yet identified the drawl points and so network adequacy at drawl points needs to be checked separately through system studies. Also,M/s Sarjan Realities Private Limited will have to specify details of drawl points well before actual grid connectivity of proposed projects.

M/s Sarjan Realities Private Limited Shall have to adhere the provisions under the CEA (Technical Standards for Connectivity to the Grid) Regulations, 2007 as amended time to time. This study is purely an indicative study considering all the generation capacity addition and the transmission network corresponding to FY 2024-25.

In case of captive BPTA of at least 10% of the capacity will have to be signed upfront alongwith connectivity Agreement. The charges for application for LTOA or MTOA will be as per the GERC Regulations. Letter of Credit for 10% capacity charges equivalent to two months billing cycle will have to be opened at time of connectivity.

The work can be taken up for laying the dedicated line and bays only after the approval of Section 68 and Section 164 of EA 2003 is received from Govt. of Gujarat. GETCO shall only charge supervision charges on metering equipment and bay at GETCO end. O & M of dedicated line from your pooling substation to GETCO substation will be done by M/s Sarjan Realities Private Limited at their own cost.

The Energy Accounting ABT meters (Main+Check) will be installed at GETCO end and one standby meter at your pooing station separately. The metering specification and CTPT *specifications will be provided by GETCO. Meters will have to be tested in NABL laboratory in presence of GETCO and DISCOM staff. Prior to payment of estimate you will have to submit the Bank Guarantee as per GERC Regulation, for timely completion of bay work as per GERC Regulation.*

The work can be taken up through any GETCO approved contractors at GETCO end. A kick of meeting will be held by GETCO after the payment of estimate where all the details will be explained by the undersigned.

This is for your information and needful in the matter please.

Thanking you,

Chief Engineer (R&C)

(Dr. A. J. Chavda)

GETCO

Copy to:

1.Dy. Director, GEDA, 4th Floor, Udhyog Bhavan, Sector-11, Gandhinagar.
2.CE(Project), GETCO, Vadodara. For information and needful please.
3.CE(R & C), Corporate office, PGVCL/DGVCL/UGVCL/MGVCL
4.SE(STU), Corporate Office, GETCO Vadodara.
5.SE(TR), GETCO.........
6.EE(Const), GETCO..........

"

Thus, it is undisputed that the Petitioner was granted connectivity on 29.06.2024 on sharing basis with lead Generator M/s. Green Prairic Energy II Private Limited as per the provisions of grant of connectivity for RE project notified by the Respondent GETCO.

9.23. In this regard, it is also necessary to refer and consider the Clause 9.6, 9.7 and draft agreement provided in relation to the grant of connectivity on sharing basis under the provisions of GERC Procedure for grant of connectivity to RE Projects dated 7.1.2023 notified by the respondent.

Clause 9.6 is referred and reproduced below:

"9.6 *The intimation for grant of Stage-II Connectivity shall include the following:*

(i) *Name of the Sub-station where Stage-II Connectivity is granted.*

(ii) *Details of Bay along with Single Line Diagram in case of existing substation and in case of planned substation, if the same is available with STU."*

Explanation

The aforesaid clause 9.6 of the GERC Procedure for grant of connectivity to RE Projects states that intimation for grant of Stage-II connectivity shall state and include (i) name of the sub-station where Stage-II connectivity is granted and (ii) details of bay along with single line diagram in case of existing substation and in case of planned substation, if the same is available with STU.

"9.7 of the procedure of grant of connectivity reads as under:

The STU/ Transmission Licensee shall issue the requisite estimate for the work like Bay construction and/ or other works required to carry out at Connectivity Sub- station to the Stage-I Connectivity grantee within 30 days of issuance of Stage-ll connectivity grant letter. The Stage-ll Connectivity grantee shall pay the estimate within 30 days and sign the Agreement for Connectivity to Transmission system in accordance with Clause 6

(4) of the GERC Connectivity Regulations, as amended from time to time, within 5 days thereafter. Thus, the full process shall be completed within 65 days from the date of issuance of intimation of grant of Connectivity. No extension of time shall be granted for payment of estimate and signing of agreement for Connectivity to Transmission system. In case of failure in payment of estimate or signing of the Connectivity Agreement within specified time above, Stage-ll Connectivity shall stand revoked and canceled.

Explanation

The aforesaid clause 9.7 requires that (i) the STU to issue requisite estimate for works like bay construction and other works required to be carried out at connectivity sub-station. (ii) Such estimate is then to be paid by the connectivity grantee within 30 days and sign the connectivity agreement with the STU. We note that in this case, the Respondent had issued the estimate of supervision charges vide its letter dated 22.08.2023 to the Petitioner. The said requirements was complied with by the Petitioner and connectivity agreement was executed on 11.09.2023.

It is also necessary to refer Clause 13.2 of the Procedure for grant of connectivity of RE project reads as under:

"**13.2.** *A person/ applicant (One or More) who is a Stage-I Connectivity grantee or is applying for Stage-I Connectivity and Stage-II Connectivity simultaneously, may apply for Stage-II Connectivity at the bay already allocated to another Stage-II Connectivity grantee along with an agreement duly signed* *between the person/ applicant and the Stage-II Connectivity grantee for sharing the Dedicated Transmission Line. The Stage-II Connectivity shall be granted to such person/ applicant subject to availability of capacity in the Dedicated Transmission Line."*

The aforesaid clause 13.2 of the procedure for grant of connectivity states that a person may apply for Stage-II connectivity grantee at the bay already allocated to another Stage-II grantee along with an agreement duly signed between the person and the existing Stage-II connectivity grantee.

9.24. We note that Format- 6 of the Procedure for grant of connectivity to RE Projects provides draft of Agreement with lead generator, which is to be executed by connectivity holder with the Lead Generator, who was granted bay on sharing basis connectivity by the respondent. Further, the lead generator shall undertake all operational and commercial responsibilities for establishment of connectivity at single sub-station by establishing the common PSS and required evacuation infrastructure on sharing basis and the other developer (s) have to extend support to the lead generator in doing so.

9.25. We note that the respondent GETCO in its letter dated 29.06.2024 mandated to the Petitioner to submit an agreement with the lead generator as per Format - 6 of the GERC Procedure for grant of connectivity to RE Projects.

9.26. We note that after grant of connectivity, the Respondent issued provisional estimate to the Petitioner on 18.07.2024 which was paid by the Petitioner. Thereafter, the petitioner requested the Executive Engineer (Construction Division) GETCO, Amreli for a joint site visit so that sharing agreement could be signed between the Petitioner & Lead Generator M/S Green Prairie Energy II Private Limited as per approved procedure.

9.27. It is also observed that on 11.09.2024, the Petitioner submitted a letter to the Respondent informing the site status of the Lead Generator M/S Green Prairie Energy II Private Limited wherein the Petitioner stated that the lead generator has not started any project activity and has not purchased any land for pooling substation. The Petitioner shown its readiness for starting the project activity and stated that they want to initiate the process of land acquisition for pooling Sub-station, which is getting delayed by the day due to non-readiness of the lead generator. The aforesaid facts prove that the delay caused in construction of transmission infrastructure by the petitioner was beyond its control and qualifies as unforeseen reasons.

9.28. Since delay was being caused due to non-readiness of the Lead Generator, the Petitioner vide letter dated 24.09.2024, requested the Respondent, GETCO to grant a separate space to the Petitioner for construction of bay and evacuation line as a separate lead generator or permit the Petitioner to construct a separate evacuation line and bay.

9.29. After various follow ups by the Petitioner, the Respondent, vide their letter dated 26.11.2024, issued space to the Petitioner at GETCO's 220 KV Savarkundla Substation for installation of separate 66 KV Feeder Bay subject to the submitting the Undertaking by the Petitioner agreeing that it shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit, which the Petitioner furnished to the Respondent on 28.11.2024.

9.30. We note that it is undisputed that under the grant of connectivity on sharing basis, the Petitioner had to approach the Lead Generator and also execute the sharing agreement with such lead generator and in that case it is the responsibility of the Lead Generator to take actions for establishment of common Pooling Sub-station (PSS) as well as common evacuation line from the PSS to the Sub-station of GETCO, where connectivity is granted to the project developers. Here, it is clearly established fact that due to inaction of the Lead Generator, the Petitioner could not execute the transmission infrastructure works. The Petitioner could take actions after grant of connectivity on 29.06.2024 in regard to establishment of PSS including finalization of land and evacuation infrastructure until it has been allocated the separate space for feeder bay by the Respondent on 26.11.2024.

9.31. Considering the aforesaid, we are of the view that the delay occurred for the period from 29.06.2024 to 24.11.2024 due to non-readiness of the Lead Generator and issuance of a separate bay, is not attributable to the Petitioner and affected the Petitioner in regard to establishing the PSS and evacuation infrastructure. It is qualified as unforeseen reasons.

9.32. We do not agree with the contentions of the Respondent that the Petitioner could have arranged for PSS land even in absence of allocation separate feeder bay by the Respondent. Until the allocation of separate feeder bay space by the Respondent, it was the responsibility of the lead generator to establish the common PSS and evacuation infrastructure on sharing basis. If contention of the respondent accepted in that case, two PSS land requires to purchase by lead generator and the petitioner who was granted connectivity with condition of sharing basis where the responsibility on PSS installation which also include land needs to procure by lead generator and the same can be shared between the lead generator and the petitioner who is granted connectivity on sharing basis with lead generator. Thus, there is no force in the contention of the Respondent, and it is against the connectivity granted condition. Hence, the same is rejected. It is only after the allocation separate feeder bay by the Respondent; the petitioner could have taken the independent actions for finalization of land and establishment of PSS and evacuation infrastructure. Therefore, the Petitioner is entitled for the extension for delay period occurred after grant of connectivity on 29.06.2024 and grant of separate feeder bay space by the Respondent on 26.11.2024.

9.33. Now we deal with the implications of Undertaking dated 28.11.2024 submitted by the Petitioner on 28.11.2024 to the Respondent as a condition for allocation of separate space for feeder bay. In this regard, it is necessary to refer the contents of Undertaking as under:

"This undertaking is executed on the 28th day of November 2024 by M/s Sarjan Realities Private Limited having corporate office at "AP 81, 1702, 17th Floor, Mundhwa, Pune 4.11036, Maharashtra" and registered office at 'Godrej Millennium, 5th Floor, 9 Koregaon Park Road, Pune - 411001,

Maharashtra. through Mr. Ankur Dilip Shah and as per authorization of the Board of Directors vide resolution dated 28th November 2023 in favor of GETCO, a company incorporated under the provision of the companies act, 1956 and having its registered office at Sardar Patel Vidyut Bhavan, Race course, Vadodara, Gujarat. M/s Sarjan Realities Private Limited has submitted the undertaking at its own will in regard to allotment of space for separate 66 kV Feeder Bay in GETCO'S 220 kV Savarkundla Substation for timely completion of the evacuation system and RE project.

…………

Whereas, Sarjan Realities Private Limited has assured to commission the evacuation system within stipulated time and shall not ask for further extension of the project.

Whereas subject to the above and without prejudice to the rights and contentions of GETCO and M/s Sarjan Realities Private Limited on the aspects of parties, rights, GETCO has agreed to allot space for separate 66 kV Feeder Bay to M/s Sarjan Realities Private Limited at 220 kV Savarkundla Substation.

NOW THIS UNDERTAKING WITNESS AS UNDER:

In consideration of GETCO agreeing to allot space to M/s Sarjan Realities Private Limited for separate 66 kV Feeder Bay at 220 kV Savarkundla Substation, without prejudice to the rights and contentions of M/s Sarjan Realities Private Limited and GETCO, M/s Sarjan Realities Private Limited acknowledges, accepts, and undertakes the following.

1) M/s Sarjan Realities Private Limited shall pay to GETCO the estimate *charge towards above arrangement.*

2) M/s Sarjan Realities Private Limited shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit.

3) M/s Sarjan Realities Private Limited shall not hold GETCO responsible before Regulatory Commission or any other Legal forum for any delay in the commissioning of RE Project / evacuation system and shall not make any financial claim on GETCO towards any delay.

……….

5) This undertaking shall be enforceable against M/s Sarjan Realities Private Limited in accordance with law"

9.34. The perusal of the aforesaid Undertaking shows that the petitioner has agreed as under:

1) It shall pay to GETCO the estimate charge towards above arrangement.

2) It shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit.

3) It shall not hold GETCO responsible before Regulatory Commission or any other Legal forum for any delay in the commissioning of RE Project / evacuation system and shall not make any financial claim on GETCO towards any delay.

9.35. As far as undertaking regarding payment of estimate charges towards new arrangement after allocation of separate space for feeder bay is concerned, as reordered in earlier part of this order, the Respondent issued final estimate to the Petitioner on 12.05.2024, which is paid by the Petitioner on 17.05.2025.

9.36. As far as undertaking that the Petitioner shall not hold GETCO responsible before Regulatory Commission or any other Legal forum for any delay in the commissioning of RE Project / evacuation system and shall not make any financial claim on GETCO towards any delay, is concerned, we note that the present petition, the Petitioner has not raised any claim and /or financial claim against the respondent GETCO. The Petitioner has sought extension of time for completion and commissioning of evacuation infrastructure due to occurrence of unforeseen events after grant of connectivity.

9.37. As far as undertaking that the Petitioner shall commission the evacuation system within stipulated time as per GERC tariff order and shall not ask for further extension of time limit, is concerned, we note that the Commission in its Wind Tariff Order No. 05 of 2024 dated 31.08.2024 provided that if wind generator fails to commission the entire allocated evacuation system along with bays and metering system within stipulated time period due to unforeseen reasons, they may approach to the Commission seeking for extension of time period. If the RE project developer approach the Commission claiming extension on account of unforeseen events, the Commission has jurisdiction to decide the extension taking into account relevant facts and merit of the case. The relevant portion of the said Order is reproduced below:

"……….. 3.8……..

If the Wind Project Developer (as Generator Consumer/ Licensee) fails to commission the entire allocated evacuation system along with bays and metering system within stipulated time period due to unforeseen reasons, they may approach to the Commission seeking for extension of time period.
…… …"

9.38. We note that it is the statutory right of the project developers to approach the Commission seeking for extension of time if it fails to commission the evacuation line due to unforeseen events, which flows from the statutory wind tariff order passed by the Commission under provisions of Electricity Act, 2003. Such statutory rights granted under the Order of the Commission, cannot be snatched away by way of the Undertaking. We also note that when the act of the contracting parties deliberately delayed the required condition in that case the other party cannot be held responsible for such delay. In the present case, the delay on part of GETCO in Grant of separate bay initially on 29.6.2024 with lead generator and the same was granted later on 28.11.2024 to the Petitioner.

9.39. It is required to be established to the satisfaction of the Commission by the affected person that the delay in completion and commissioning evacuation infrastructure is attributable to the unforeseen events which is in nature of beyond the reasonable control, seeking for extension. In case, the Undertaking submitted by the Petitioner is given effect to, it will be against principle of natural justice, as it deprives the Petitioner from getting the relief otherwise entitled to under the statutory order passed by the Commission, due to causes / events which is unforeseen in nature and not attributable to it.

9.40. Considering above, we decide that the petitioner is entitled to approach the Commission under the provisions of wind tariff order and seek for extension of time, if it is affected due to unforeseen events leading to delay in completion and commissioning of evacuation line including on the issue delay on account of inaction of lead generator and allocation of separate space for feeder bay.

10. Now we deal with the issue of delay in issuance of final estimate by the Respondent:

Petitioner's submission:

10.1. It is submitted that the separate space for installation of 66 KV Feeder Bay was granted to the Petitioner by the Respondent later on after grant of connectivity on representation of the petitioner that the lead generator failed to construct necessary bay which was shared with the petitioner. The Separate space for 66 KV Feeder Bay was granted to the Petitioner on 28.11.2024 by the respondent. The Petitioner, on directions of the Respondent, submitted an undertaking to the Respondent in this regard.

10.2. The Petitioner, while submitting the said undertaking, specifically requested the Respondent to issue the final Estimate for installation of the 66 KV Feeder Bay at 220 KV Savarkundla Substation at the earliest so as to enable the Petitioner to initiate actions for establishment of PSS and evacuation infrastructure.

10.3. The Petitioner visited the Respondent's place on 08.01.2025 and a meeting was held wherein the Petitioner requested for the issuance of Final Estimate for the space allocated for installation of separate 66 KV Feeder Bay on 26.11.2024.

10.4. The Respondent sent an email to the Petitioner on 17.01.2025 seeking proof of ownership of balance 50% land area.

10.5. Immediately after receipt of email dated 17.01.2025 from the Respondent, the Petitioner, vide letter dated 21.01.2025 to the Respondent submitted that 17 out of 19 lands have been acquired and thereby submitted Title Clearance Report and DILR Mapni Sheet along with the letter.

10.6. It is submitted that the Petitioner communicated multiple times to the respondent requesting the issuance of Final Estimate for the installation of 66KV Feeder Bay. In absence of the Final estimate, it was not possible for the Petitioner to seek clearance under Section 68 and Section 164 of the Electricity Act, 2003. Thereby, the Petitioner was not able to start the installation work on feeder bay or seek RoW Clearance.

10.7. On 12.05.2025, after a delay of almost 5 (five) months, the Respondent issued the Final Estimate to the Petitioner for erection of 66KV Feeder Bay for evacuation of 40 MW Wind Power evacuation at 220 KV Savarkundla Substation of GETCO.

10.8. After the Final Estimate was received by the Petitioner on 12.05.2025, the Petitioner, made the payment for the same within 5 days of the issuance of such estimate.

10.9. Thereafter, on 17.05.2025 i.e. same day of payment of final estimate, the Petitioner filed for the issuance of State Government Approval under Section 68 and Section 164 of the Electricity Act, 2003 for laying 66 KV S/C Transmission line from PSS to GETCO S/S vide application reference No. ELA/2025/273, which is reproduced below:

"Ref. No.: SRPL/E&PD/EA-2003/Mevasa/2025-26/01 Date: 17/05/2025

To,
The Principal Secretary
Energy & Petrochemical Department,
Sector 10, Gandhinagar,
Gujarat 382010

Sub: Application for issuance of State Government Approval Under Section 68 & 164 of Electricity Act, 2003 for laying 66 KV S/C Transmission Line of 20.570 KM length from M/s Sarjan Realities Pvt. Ltd. PSS at Village Nani Vadal of Taluka Savarkundla and District Amreli to 220 kV Savarkundla GETCO Substation at Village and Taluka Savarkundla of District Amreli.

Ref.: Stage- II Approval for grid connectivity and evacuation of 40.00 MW Wind Power at 220 kV Savarkundla GETCO S/S Ref. No. GETCO/R&C/STAGE2000191 dtd. 29/06/2024.

Dear Sir,
We, M/s Sarjan Realities Private Limited (SRPL) is a private limited company having registered office at Godrej Millennium, 5th Floor, 9, Koregaon Park Road, Pune 411001, Maharashtra, India and Corporate / Correspondence office at AP-81, 1702, 17th Floor, Mundhwa, Pune 411036, Maharashtra, India with CIN No. U70101PN1997PTC016521 and PAN NO. AAACE3472H. M/s Sarjan Realities Private Limited is engaged inter alia in the business of project development and EPC Service provider for Renewable Energy sector which includes Wind, Solar and Wind-Solar Hybrid projects across India.

We had applied to Gujarat Energy Transmission Corporation Ltd. (GETCO) for connectivity and feasibility study for evacuation of 40 MW Wind Power (RE) project at their 220 KV Savarkundla GETCO Substation at 66 kV level in Village & Taluka Savarkundla of District Amreli in line with Gujarat Renewable Energy Policy-2023 dated 04/01/2023.
Against our application we were awarded with 40 MW Wind Farm Project vide GETCO's letter dated 29/06/2024 (referred above) and were in receipt of provisional estimate letter, Space

allocation for installation of 66 kV Feeder Bay and Final Estimate of Supervision charges for erection of 66 kV Feeder Bay at 220 kV Savarkundla GETCO S/S as mentioned below

1) *Provisional Estimate Ref. No. GETCO/R&C/RE/1332 dated 18/07/2024.*
2) *Space Allocation Ref. No. CE(R&C)/Sarjan Reality/2076 dated 26/11/2024.*
3) *Final Estimate Ref. No. GETCO/R&C/RE/93 dated 12/05/2025.*

Further, upon receipt of Final Estimate dated 12/05/2025, we had paid the supervision charges for erection of 66 kV Feeder Bay in GETCO's premises at 220 kV Savarkundla S/S vide payment receipt no. 77935 dated 17/05/2025 (copy enclosed).

Now, we recall the Stage II Connectivity letter wherein the GETCO feasibility/technical study permits evacuation/installation of Feeder Bay at their premises subject to issuance of Section 68 and Section 164 of Electricity Act, 2003 from Government of Gujarat that deals with Row to lay transmission lines.

Thus, to evacuate power which flows from our Wind Farm location to our Wind Farm Pooling Substation (PSS), we have purchased a private land bearing Survey No. 31p3 at Village: Nani Vadal of Taluka Savarkundla in District Amreli. We will be constructing 33/66 kV Wind Farm PSS at this land location to further evacuated the power to GETCO's Savarkundla Substation (GSS) through dedicated 66 kV Single Circuit Overhead Line on D/C Panther Tower with AL-59 Panther Conductor and 1C x 630 Sq. mm. (3+1) XLPE Cable.

The land in possession of SRPL for construction of 66/33 KV Wind farm Sub Stations is adjacent to the land in which GETCO Savarkundla substation is constructed. The length of proposed 66 KV S/C OH line between 220 kV GETCO Savarkundla substation at 66 kV level and Proposed 66/33 KV Wind farm Substation of SRPL is 20.570 KM (17.57 KM O/H line + 3.00 KM U/G line). The line from PSS to GETCO Substation shall pass through villages like Mota Zinzuda, Nana Zinzuda, Bhenkra, Savarkundla, Pithavdi, Nani Vadal, Badhada, Gadhakda and Likhala of Taluka Savarkundla and District Amreli. All works related to laying of transmission line in the above said survey number shall be done as per Grid code and CEA's technical standards and under strict guidelines laid down by GETCO.

Hence, we request your good self to kindly grant us the approval under section 68 and 164 of Electricity Act, 2003 at the earliest so as the process of supply, installation & commissioning of 66 kV S/C OH line on D/C Panther Tower with AL-59 Panther Conductor between 220 KV Savarkundla Substation at 66 kV level of GETCO & 66/33 KV Nani Vadal Wind farm substation of M/s Sarjan Realities Pvt. Ltd. can be taken up.

Should you require any further clarification we shall be pleased and make ourselves available at your good office for discussion.

Thanking You,
Yours Faithfully,
For M/s Sarjan Realities Private Limited

(Ankur D. Shah)
Authorized Signatory
Cell no.: +91 74900 47790
Email id: ankur.shah@skeiron.com

Encl:-a/a"

The above application shows Bonafide and diligent actions on part of the Petitioner to expedite the creation of evacuation infrastructure within specified time by obtaining statutory approval from the concerned authorities.

10.10. It was only after the final estimate was granted to the Petitioner on 12.05.2025, the Petitioner was able to initiate the application for Section 68 and Section 164 approval and initiate the work on installation of the Feeder Bay. Such issuance of Final Estimate on 12.05.2025 lead to a delay from 28.11.2024 (i.e. date of submission of undertaking) to 12.05.2025 (i.e. date of issuance of Final Estimate) which is not in control of the petitioner but is in control of the Respondent.

Respondent's submission

10.11. The Petitioner has sought to claim a delay in issuance of final estimate as reason for extension which cannot be accepted. The final estimate is issued after joint survey and based on the work to be carried out. Generally, once the layout and drawings are submitted and approved, the final estimate is issued by GETCO which is paid by the Stage II Grantee. This is not only for the Petitioner but for all Grantees. The same is not a reason for delay in work being carried out by the Grantee.

10.12. The Petitioner has only referred to estimate issued on 12.05.2025 but not the intervening facts and its own submission of the drawings. There were delays on part of the Petitioner as well. The relevant facts are:

a. On 31.12.2024, the representative of the Petitioner had telephonically approached the Sub-division (GETCO field office) regarding joint visit and a meeting. This was time taken by the Petitioner.

b. A meeting was held on 08.01.2025 at 220 KV Savarkundla sub-station where various aspects were discussed.

c. GETCO (field office) vide email dated 13.01.2025 had send the sub-station layout copy for drawing correction work for submission to be made to Head office. This email was replied by the Petitioner only on 28.01.2025. However, the same required correction and accordingly the issue was discussed telephonically and thereafter the Petitioner submitted the drawing vide email dated 05.02.2025.

d. After receiving final confirmation regarding Layout drawing telephonically by the Petitioner to GETCO field Office, the quantities for Final Estimate has been prepared as per tentative Lay out submitted by Petitioner and then Final Estimate was prepared by GETCO field Office and is considered internally by various departments of GETCO and after scrutiny forwarded to GETCO Projects department at corporate office, and after that GETCO R&C Issued Final estimate to the Petitioner on dated 12.05.2025. Since this pertains to a 220 kV substation, GETCO was required to verify the layout and technical parameters both at the field level and at the head office level.

10.13. It is stated that the issuance of final estimate does not in any manner restrict the Petitioner from undertaking other work including the approvals for dedicated transmission line and the arrangement of contract etc. There is no reason why the Petitioner had to wait to apply for approvals under Sections 68 and 164 or ROW Clearance for the line. As already submitted, the issuance of final estimate is a process for all Grantees and it is not the case that such grantees cannot undertake any work until the final estimate is issued.

Commission's analysis

10.14. We note that after grant of connectivity on 29.06.2024 to the Petitioner on sharing basis with the lead generator, the Respondent vide letter dated 18.07.2024 issued provisional estimate to the Petitioner which was paid by the Petitioner and also executed connectivity agreement with the Respondent on 16.08.2024. This clearly indicates that after grant of connectivity, the Respondent issued the provisional estimate which was paid by the Petitioner, whereas issuance of final estimate was still pending.

10.15. The Respondent vide letter dated 26.11.2024 allocated separate space to the Petitioner for feeder bay subject to submission of Undertaking by the Petitioner. One of the conditions of the Undertaking is that the Petitioner shall require to pay to GETCO the estimate charges for the new arrangement after allocation of space to the Petitioner for feeder bay. This establishes that the establishment of the evacuation infrastructure was subject to final estimate to be issued by the Respondent.

10.16. The Petitioner communicated multiple times to the respondent requesting for issuance of Final Estimate for the installation of 66KV Feeder Bay. In absence of the Final estimate, it was not possible for the Petitioner to seek clearance under Section 68 and Section 164 of the Electricity Act, 2003. Under section 68 and 164 of the Electricity Act,2003 while applying for approval to the competent authority by the project developers /person shall be required to submit estimate paid by it to the licensee and also connectivity granted by the licensee as supporting document alongwith application. Thus, in absence of above, the Petitioner was not able to start the installation work on feeder bay or seek RoW Clearance which are mandatory in nature. Hence, the contention of the Respondent against it are not acceptable and rejected.

10.17. We note that on 12.05.2025, after a delay of almost 5 (five) months, the Respondent issued the Final Estimate to the Petitioner for erection of 66KV Feeder Bay for evacuation of 40 MW Wind Power evacuation at 220 KV Savarkundla Substation of GETCO is not disputed facts between the parties.

10.18. We also note that after the Final Estimate was received by the Petitioner on 12.05.2025, the Petitioner, made the payment for the same within 5 days of the issuance of such estimate. It is also undisputed fact that on 17.05.2025 i.e. same day of payment of final estimate, the Petitioner applied for the State Government Approval under Section 68 and Section 164 of the Electricity Act, 2003 for laying 66 KV S/C Transmission line from PSS to GETCO S/S vide application reference No. ELA/2025/273.

10.19. We note that the Respondent has mandated the Petitioner to give an undertaking that they will not claim for any extension in completion of the transmission system need to be created by them though the lead generator failed to construct the necessary bay and transmission infrastructure which was agreed by it and mandated under the procedure to complete the same and share with the Petitioner. The Respondent has put up the condition on the Petitioner that they will not ask for any extension on the ground of delay in granting separate bay to the Petitioner for creation of transmission infrastructure which was beyond its control.

10.20. We also note that even after grant of separate bay to the Petitioner at connecting substation after failure of lead generator to construct the necessary bay and infrastructure on sharing basis with the Petitioner, it is the duty of the Respondent to act in a fair and proper manner so that the Petitioner will be able to carry out the necessary work for creation of infrastructure of transmission system and complete the project as stipulated in the procedure read with order of the Commission.

10.21. We note that it is undisputed between the parties that the Respondent has delayed issuance of the estimate after allocation of separate bay to the Petitioner at 220 kV Savarkundla substation for a period of 5 months which is beyond the control of the Petitioner but the same is in the control of the Respondent GETCO who is transmission licensee. We also note that in absence of estimate issued by the Respondent, the

Petitioner is unable to start the work with regard to creation of transmission network. Further, the payment of estimate charges by the project developer who required to obtain permission under Section 68 and 164 of the Electricity Act, 2003 from the appropriate government authorities unable to obtain the permission under aforesaid provisions which are statutory provisions and approval is statutory approval. We also note that delay in issuance of estimate by the Respondent GETCO as stated above lead to delay in applying before the concerned authority under section 68 and 164 of the Electricity Act, 2003 for laying down transmission system by the Petitioner and consequently the project developer is responsible for creation of necessary transmission infrastructure. The aforesaid delay is after grant of separate bay by the Respondent to the Petitioner after obtaining undertaking on failure of lead generator on creation of transmission infrastructure on sharing basis with the Petitioner. The act of the Respondent for delay in issuance of estimate to the Petitioner and as a consequence of which delay in approval of appropriate authority under Section 68 and 164 of the Electricity Act is qualified as unforeseen reason and beyond the control of the Petitioner and the same is qualified for extension of creation of transmission system by the Petitioner.

10.22. We note that the Petitioner has applied for permission under section 68 and 164 of the Act to the appropriate authority after obtaining estimate from the Respondent which is mandatory requirement for the aforesaid approval applied on 17/05/2025. However, the approval of competent authority is not available to the Petitioner on the last date of hearing i.e. 19/08/2025. Thus, the delay in the creation of transmission infrastructure work for the period from grant of separate bay to the Petitioner upto 19/08/2025 which is still continuing till the final approval on the application under section 68 and 164 granted by appropriate authority. Accordingly, the delay on issuance of estimate by Respondent as well as appropriate authority under section 68 and 164 is qualified as unforeseen reason as beyond the control of the Petitioner.

10.23. The aforesaid facts clearly establish that the Petitioner was affected due to occurrence of delay in issuance of final estimate as in absence of the same, it could not apply to the State Government for approval under Section 68 and Section 164 of the Electricity Act, 2003 for laying 66 KV S/C Transmission line from PSS to GETCO S/S seek permission from the authorities for Right of Way.

10.24. We do not agree with the submission of the Respondent that the issuance of final estimate does not in any manner restrict the Petitioner from undertaking other work-related approvals for dedicated transmission line and the arrangement of contract etc. We note that the line route approved by the Respondent as reflected in the final estimate will be the basis for making application to the State Government for seeking permission under Section 68 and Section 164 of the Electricity Act, 2003. It is only after receipt of final estimate and payment of the same to the Respondent, the Petitioner could be able to apply alongwith estimate paid by connectivity holders, connectivity granted by the licensee for Government permission under Section 68 and 164 of the Electricity, Act, 2003 for laying 66 KV S/C Transmission line from PSS to GETCO S/S and permission from the authorities for Right of Way and commence the construction activities of transmission line upon receipt of permissions from State Government.

10.25. The aforesaid facts establishes that the delay occurred in respect of the Petitioner in issuance of final estimate on 12.05.2025 by the Respondent after delay in issuance of the final estimate by the Respondent in allocation of separate space for feeder bay on 26.11.2024 which is beyond its control and is qualified as unforeseen event for which the petitioner is entitled for the extension of time.

11. We also note the status of the project as on date of filing of the Petition, submitted that it has completed the following activities:

i. Acquired 100% land for the 40 MW Wind Project including land for PSS

ii. Finalization of various definitive agreements for procurement of various components and equipment.

iii. State Government approval under Section 68 and 164 of the Electricity, Act, 2003.

12. Considering the above we are of the view that the delay occurred in completion of transmission system from its power plant to the respondent s/s is beyond the control of the petitioner on ground of (i) delay due to inaction on part of lead generator in construction of bay and necessary infrastructure which was granted connectivity on sharing basis with the petitioner initially (ii) delay occurred in allocation of separate space for feeder bay and (iii) delay occurred in issuance of final estimate by the Respondent. (iv) delay in grant of approval under section 68 & 164 of the Electricity Act,2003 by the competent authority. Hence, the petitioner is eligible for extension in the connectivity timeframe specified in the wind tariff order under which the connectivity was granted to the Petitioner for the period as decided in

above para.

ORDER

13. The present petition partially succeeds. We hold that the delay in creation of transmission system is due to unforeseen events and beyond the control of the petitioner.

(i) Delay occurred on ground of non-creation of necessary bay and infrastructure of bay by lead generator at Respondent S/S from 29.06.2024 to 24.09.2024 i.e. 88 days.

(ii) Delay occurred in grant of separate bay to petitioner by the Respondent from 24.09.2024 to 26.11.2024 i.e.64 days.

(iii) Delay occurred in issuance of final estimate by the Respondent from 26.11.2024 to 12.05.2025 i.e.168 days.

(iv) Delay in grant of permission under section 68 and 164 of the Electricity Act,2003 by the competent authority from 17.05.2025 onwards to last date of hearing 31.07.2025 i.e. 76 days which has continued on the last date of hearing i.e. 31.07.2025.

14. Considering the above, the total delay occurred in creation of transmission system by the petitioner beyond its control and qualified as unforeseen reason for which the petitioner is granted an extension of

396 days for creation of completion of its infrastructure.

15. We order accordingly.

16. With this order, the petition along with pending IA, if any, stands disposed of.

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

Place: Gandhinagar
Date : 01/10/2025