BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION GANDHINAGAR

Petition No. 2417 of 2024.

In the Matter of:

Petition under Section 86 of EA, 2003 read with Order No. 05/2024 dated 31.08.2024 "Tariff Framework for Procurement of Power by Distribution Licensees and Others from Wind Power Projects for the State of Gujarat" passed by the Commission seeking extension of Scheduled Date of Commissioning (SCOD) of infrastructure being developed by the Petitioner for evacuation of power form its 200 MW wind farm located at Jamjodhpur to 220 kV Kalavad sub-station of Respondent/ GETCO, on account of occurrence of Force Majeure events.

Petitioner	:	Suzlon Global Service Limited 'Suzlon', 5, Shrimali Society, Near Shri Krishna Complex, Navrangpura, Ahmedabad-380009
Represented By	:	Ld. Adv. Mr. Mridul Chakravarty along with Adv. Mrs. Ankita Bafna

V/s.

Respondent No.1	:	Gujarat Energy Transmission Corporation Limited Sardar Patel Vidyut Bhavan Race Course Circle, Vadodara – 390007.
Represented By	:	Ld. Adv. Mr. Aneesh Bajaj with Mr. Shobhraj Jayswal
Respondent No. 2	:	Gujarat Energy Development Agency 4th Floor, Block No. 11 & 12, Udyog Bhavan Sector-1, Gandhinagar-382017, Gujarat.
Represented By	:	Mr. Anil Patel and Mr. Parthik Patel

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

Date: 06/08/2025.

DAILY ORDER

1. The present matter was kept for hearing on 17.07.2025.

2. At the outset, Ld. Adv. Mr. Mridul Chakravarty appearing on behalf of the Applicant/Petitioner made submissions traversing through, various documents and argued the matter referring to different provisions of the Detailed Procedure, factual aspects and relevant Judgements. He further submitted that in pursuance to the reply filed by the Respondent on 28.01.2025, the Petitioner has filed its rejoinder reply on 08.07.2025 and copy of the said rejoinder reply is served to the Respondents. He further submitted that the pleadings of the present Petition is completed.

2.1. He submitted that the Petitioner is in the process of setting up the infrastructure for evacuation of 200 MW Power from its Wind Power Project located at Jamjodhpur to 220 kV / 400 kV Kalavad substation of the Respondent No. 1, GETCO, under captive use.

2.2. He submitted that the Stage-II connectivity of the project of the Petitioner was granted in accordance with connectivity procedure dated 07.01.2023 issued by this commission during the subsistence of the Gujarat Wind Policy, 2016. As per Clause 22 of the said Wind Policy, the wind project having the capacity 101 MW to 200 MW, were required to commission the entire allotted pooling substation capacity within two years from the date of Stage-II connectivity. He further submitted that the Petitioner having allocated capacity of 200 MW was required to commission within two years from the date of grant of Stage-II connectivity (30.06.2023) i.e. till 30.06.2025 (being SCOD of the project).

2.3. He submitted that the Petitioner on 15.11.2022, applied for Stage-I connectivity registered as STAGE100000263 before the Respondent No. 1,

GETCO, which was granted by GETCO on 20.01.2023. He further submitted that there is no dispute with regard to the Stage-I connectivity given at Kalavad substation.

2.4. He further submitted that on 07.01.2023, the Commission while exercising power conferred under Regulation 20 (Chapter-5) of GERC OA Regulations, issued the Procedure for Grant of Connectivity to projects based on Renewable Energy Sources to Intra State Transmission System. The said procedure extensively laid down the steps to be followed both by the Appellant and GETCO for availing / granting connectivity to the Inter-state transmission system for evacuation of power from the generating stations.

2.5. He submitted that on 22.05.2023, IDBI Bank Ltd. issued a Bank Guarantee, on behalf of the Petitioner, worth Rs. 10 Crore in favour of Respondent No.1, GETCO. The expiry date of the BG is 23.05.2025. The last date by which BG can be invoked by the Respondent No. 1, GETCO, is 23.05.2026.

2.6. He submitted that the Petitioner on 23.05.2023 applied for Stage-II connectivity along with requisite documents. The Respondent No. 1, GETCO, on 30.06.2023 granted Stage-II connectivity to the Petitioner for evacuation of 200 MW power from its Wind Power Project located at Jamjodhpur through 220kV / 400 kV Kalavad sub-station under captive mode.

2.7. He submitted that on 26.07.2023, Respondent No. 1, GETCO, wrote a letter to the Petitioner providing the provisional estimate of supervision charges for erection of GIS feeder bay at GETCO's 220kV/ 400 kV pooling substation at Kalavad. On 24.08.2023, the Petitioner executed a connection Agreement with the Respondent No.1, GETCO, for connecting its 200 MW wind power project facility to the STU's transmission system at the interconnection point at 220 kV level of 220/ 400 kV Kalavad substation.

2.8. He submitted that the progress in the project of the Petitioner was substantially and adversely impacted due to occurrence of following uncontrollable and unforeseeable events tantamount to force majeure events which continues to delay the completion of the construction work and achieving the SCOD of the project, viz.: (i) Delay in the project registration/ grant of Development permission to the Petitioner by the GEDA (ii) Delay on account of Ministry of Defence (MOD) declaring "No-WTG Zone" in Gujarat *inter alia* covering substantial part of the evacuation infrastructure (iii) Delay due to frequent changes in GIS Bay sequence at the behest of GETCO and other RE developers (iv) Delay due to tariff vacuum for wind power projects in Gujarat, adversely affecting/hindering Petitioner's efforts in development of Petitioner's Proposed wind farm and the common evacuation infrastructure.

2.9. He submitted that on 04.10.2023, the Government of Gujarat issued a new Renewable Energy (RE) Policy, 2023. The new RE policy of 2023 *Inter alia* introduced new modalities w.r.t. registration of RE projects as per the procedure to be framed by Gujarat Energy Development Agency (GEDA).

2.10. He further submitted that Clause 25.2 – 25.3 of the Gujarat RE Policy 2023 *Inter alia* for the first time mandated RE projects to register with GEDA (i) through an online portal to be devised by Respondent No. 2, GEDA (Development Permission) and (ii) as per the modalities / procedure / terms & conditions to be formulated by GEDA. Thus, the Petitioner was constrained to comply with such requirement, especially in view of its ensuing discussion with GEDA wherein the latter insisted for such compliance by the Petitioner. He further submitted that GEDA formulated the Executive procedure belatedly i.e. only in December 2023. Therefore, during the entire period of October – December 2023, the Petitioner was unable to procced with project related activities without registration of its

project due to inordinate delay on the part of GEDA in issuing the Executive procedure.

2.11. It is further submitted that Clause-5 of the Executive procedure issued in December 2023 mandated RE developers, for the first time, to obtain a Development Permission from GEDA through an online portal to be developed by GEDA. He further submitted that obtaining Development Permission became indispensable for the Petitioner as it is through such Development permission only GEDA would approve the final land coordinates for installation of WTGs.

2.12. He submitted that on 23.04.2024, 26.06.2024 and 30.07.2024, the Petitioner in hard copy applied to GEDA for grant of Development permission w.r.t. 71.40 MW, 46.20 MW and 21 MW respectively, out of total wind farm capacity of 200 MW. It was only in March 2024, GEDA communicated to the Petitioner to continue with the hard copy submission for Development Permission. He further submitted that on 17.05.2024, 29.07.2024 and 12.08.2024, GEDA granted Development permission to the Petitioner w.r.t. its application dated 23.04.2024, 26,06,2024 and 30.07.2024. Thus, delay of more than 13 months (July 2023- August 2024) in the project registration / grant of development permission to the Petitioner by the GEDA was uncontrollable and unforeseeable event tantamount to force majeure which hampered the completion of the construction work and achieving the SCOD of the project.

2.13. He submitted that as regards issuance of Notification by Ministry of Defence (MOD) in December 2023 thereby declaring certain areas as "No WTG Zone" in the state of Gujarat is concerned, the Petitioner on 15.06.2024 applied to Command Air Traffic Controller Officer, Gandhinagar requesting to issue NOC for construction of 220 KV S/C transmission line from tower location 42/0 at Bodi Village, Kalavad Taluka to Tower location 57 at Sogthi village,

Jam Jodhpur Taluka, Jamnagar of length of 12.80 KMs and the nearest tower being 41.90 KM from Jamnagar IAF Station.

2.14. He submitted that the Petitioner on 04.12.2024 issued a letter to the Command Air Traffic Control, Gandhinagar and again requested to approve the pending NOC for the 220 kV SC line. In response to the same the Command Air Traffic Control Officer, Gandhinagar on 20.12.2024 issued a letter to the Petitioner and stated that the NOC application is under scrutiny and being reviewed and vetted by all the concerned agencies and once all necessary clearances are obtained the approved NOC shall be promptly forwarded to the Petitioner. The Petitioner again on 17.02.2025 issued a letter to the Command Air Traffic Control, Gandhinagar and reiterated its earlier stand.

2.15. He further submitted that after a passage of almost 9 months the Command Air Traffic Control, Gandhinagar vide its letter on 06.03.2025 granted NOC, subject to some conditions, for construction of 220 kV EHV SC line of the Petitioner from tower location 42/0 at Bodi Village Kalavad Taluka to tower location 57/0 at Sogthi village, Jamjodhpur Taluka, Jamnagar District.

2.16. He further referred to the Order passed by the Commission in case No. 2462 of 2025 wherein similar issue of notification by MOD declaring certain areas as "No Go/No WTG Zone" was raised. The Commission has considered the said issue as unforeseen reason and granted extension in connectivity sought by the Petitioner.

2.17. With regard to delay due to frequent changes in GIS bay sequence at the behest of GETCO and other RE developers is concerned, he submitted that significant delay has been caused at the instance of GETCO and other RE developers who have frequently sought changes in the 220 kV GIS bay

sequences and associated technical arrangements at GETCO's 220 kV /400 kV substation at Kalavad.

2.18. He submitted that a meeting was held between the Respondent No. 1 GETCO and Multiple RE project developers including the Petitioner on 12.09.2023 concerning installation of 220 kV GIS bays at GETCO's substation. All RE developers viz. M/s Morjar, M/s Opwind and M/s Suzlon agreed to a specific bay sequence. He further submitted that a review meeting for 220 kV Kalavad GIS-Extension GIS bay for RE developers was has held on 21.11.2023. In the said meeting, the revised GIS bay sequence was decided as (i) OP wind (ii) Suzlon & (3) Morjar. Further, on 22.02.2024, the GIS bay sequence was changed in the following form viz; (i) M/s Morjar, (ii) M/s OP wind (iii) M/s Suzlon and (iv) M/s Clean Max. Further, M/s Cleanmax vide letter dated 29.07.2024 requested for bay swapping with Suzlon to proceed with the evacuation as planned. Further, minutes of meeting dated 09.08.2024, it was recorded that due to technical issues the bay swapping was not possible as requested.

2.19. He further submitted that such repeated and unforeseen changes in Bay sequence and associated technical arrangements at GETCO's 220 kV Kalavad substation has a cascading effect on the delay being caused in commissioning of the evacuation infrastructure between Petitioner's Proposed wind farm and GETCO substation which ought to be taken into account for extension of SCOD.

2.20. He submitted that as regards tariff vacuum for wind power project in Gujarat, inter alia resulting in regulatory uncertainty is concerned, the Commission issued Order No. 02 of 2020 in the matter of '*Tariff framework for procurement of power by distribution licensee and other from wind Turbine Generators and other commercial issues for the State of Gujarat*' which expired on 31.03.2022. Since then i.e. from 01.04.2022, there was no

operative wind tariff order in force in Gujarat until 31.08.2024 i.e. when this Commission passed Order No. 05 of 2024 in the matter of '*Tariff framework for procurement of Power by Distribution licensees and others from Wind Power projects for State of Gujarat'.* Although the Wind Tariff Order 2024 was made retrospectively applicable from 06.06.2022, however it is a matter of fact that wind tariff vacuum persisted during the intervening period of 01.04.2022 to 31.08.2024. This resulted in regulatory uncertainty for potential WTG owners especially *qua* applicable transmission and wheeling charges, and wheeling losses including for captive generators and concessions thereof.

2.21. He further submitted that prior to the Wind Tariff Order, 2024, in December 2023, the Commission issued a Request for Proposal to investigate energy banking for the state effective from September 2024 onwards, of the interregnum energy banking was considered at Rs. 1.50 per GERC (Terms and conditions for Green Energy Open Access) Regulations, 2024.

2.22. He further submitted that Respondent No. 1 GETCO vide letter dated 26.07.2023 categorically specified that while the Petitioner remains as lead generator, the subsequent RE developer shall share the cost of dedicated transmission line with the Petitioner. On 03.06.2023, the Petitioner furnished a 'comfort letter' to GETCO *inter alia* confirming that the project was financed through internal accruals 'together with collection from customers' (i.e. potential WG Owners). The construction and commissioning of the evacuation infrastructure was dependent on the sharing of the cost of the dedicated transmission line between the Petitioner and the potential WTG owners.

2.23. He further submitted that such tariff vacuum resulted in regulatory uncertainty and adversely affected / hindered Petitioner's efforts in garnering / attracting potential WTG owners to participate in development

of Petitioner's Proposed wind farm and the common evacuation infrastructure.

2.24. In response to the query of the Commission with regard to the availability of any documents/ communication made between the Petitioner and the investors wherein the investors shown their disinterest due to regulatory uncertainty, the Ld. Adv. for the Petitioner submitted that the Petitioner has approached the potential WTG owners between 01.07.2023 to 31.08.2024 for inviting them to establish WTGs in Petitioner's proposed 200 MW wind farm at Jamjodhpur, Gujarat, however the investors showed disinterest due to regulatory uncertainty prevailing in the sector. The Petitioner has placed on record letter dated 23.09.2023 and 17.10.2023 of the investors to whom the Petitioner had approached and they had shown disinterest due to regulatory uncertainty prevailing in the sector.

2.25. He submitted that the Petitioner vide letter dated 24.06.2024 represented to GETCO, citing force majeure events and sought extension of SCOD of the evacuation infrastructure upto 30.06.2026 without any financial consequences. In response to the same, the Respondent No. 1 GETCO vide letter dated 09.07.2024 suggested to file a Petition before the Commission to seek extension of SCOD of the evacuation infrastructure. Hence, the Petitioner filed the present Petition seeking this Commission's emergent intervention in adjudicating upon the present dispute/ claim.

3. Ld. Adv. Mr. Aneesh Bajaj appearing on behalf of the Respondent GETCO, submitted that the issue involved in the present Petition is pertaining to extension of SCOD for infrastructure being developed by the Petitioner. He further submitted that the Petitioner has submitted the Bank Guarantee dated 22.05.2023 of amount of 10 crores which is expiring on 23.05.2025 with claim period until 23.05.2026 and the Petitioner has sought extension

until 30.06.2026. He submitted that the Petitioner is first expected to extend the BG.

3.1. He submitted that the Petitioner was granted Stage-II connectivity vide letter dated 30.06.2023 for 200 MW Wind Power project at 220 kV Kalavad substation of GETCO and in terms of the prevailing timelines on the date of Stage-II connectivity being 24 months the Petitioner was required to complete by 30.06.2025.

3.2. He further contended that the Petitioner is seeking extension from 30.06.2025 to 30.06.2026 or completion whichever is earlier on the basis of four alleged aspects i.e. (i) Delay in the project registration/ grant of Development permission to the Petitioner by the GEDA (ii) Delay on account of Ministry of Defence (MOD) declaring 'No-G0/ No-WTG Zone' in Gujarat *inter alia* covering substantial part of the evacuation infrastructure (iii) Delay due to frequent changes in GIS Bay sequence at the behest of GETCO and other RE developers (iv) Delay due to tariff vacuum for wind power projects in Gujarat, adversely affecting/hindering Petitioner's efforts in development of Petitioner's Proposed wind farm and the common evacuation infrastructure.

3.3. He contended that as regards delay in project registration / grant of Developer Permission by GEDA is concerned, the Petitioner had chosen to obtain connectivity allegedly before it had obtained investors and before it had registered the project with GEDA. This is entirely a commercial decision of the Petitioner. He further submitted that quarterly report vide letter dated 09.11.2023 and 27.12.2023, had no mention about the alleged issues of GEDA permission and the only issue was not being able to find investors allegedly due to uncertainty.

3.4. He submitted that the registration with GEDA was provided even under Wind Power policy 2016 and it was not a new requirement. The Renewable Energy Policy 2023 was to provide a single window web system for RE projects which eases the process. The RE policy 2023 was notified on 04.10.2023 but the Petitioner had already applied for Stage-I connectivity in 2022 and Stage-II connectivity on 30.06.2023, the Petitioner had not taken any steps for registration until October 2023.

3.5. He further submitted that Manual application was allowed for GEDA permission even prior to December 2023 wherein Developer Permission was not required for registration. The Petitioner could have applied prior to December 2023.

3.6. He further submitted that the Petitioner applied to GEDA for the Developer Permission only on 23.04.2024, 26.06.2024 and 30.07.2024 for 71.40 MW, 46.20 MW and 21 MW i.e. nearly a year from its Stage-II connectivity. He further submitted that the GEDA provided the approvals in a reasonable time i.e. on 17.05.2024, 29.07.2024 and 12.08.2024.

3.7. He further submitted that there were other wind power projects who were provided the Stage-II connectivity as per the Detailed Procedure in 2023 who have not raised the issue of GEDA permission.

3.8. He further submitted that there is no basis for consideration of period from July 2023 when the New policy came only in October 2023 and modalities were issued in December 2023.

3.9. He further submitted that GEDA had responded to the application in a reasonable time and the same cannot be claimed as delay and the Petitioner cannot expect that GEDA would not take any time for registration and permission.

3.10. He submitted that as regards delay on account of MOD notification for '*No GO/ No WTG Zone*' in Gujarat – pendency of NOC is concerned, the Petitioner has claimed that MOD had declared '*No GO/ No WTG Zone*' in December 2023, though in letter dated 24.06.2024 the reference is November-December 2023. He submitted that the Petitioner may substantiate the declaration in December 2023 as in case of another developer, Solarcraft, had claimed in April and May 2023 itself certain issues in regard to the MOD and National security. If the issue had already arisen in April and May 2023 for Stage-II connectivity cannot claim any relief.

3.11. He further submitted that the Petitioner has claimed that the MOD would take approximately six months / 180 days to process the application but apparently the Petitioner had not even applied for the same until 15.06.2024. The Stage-II connectivity was obtained on 30.06.2023 and the Petitioner had apparently not taken any steps until December 2023 in terms of the evacuation line and even thereafter the Petitioner has claimed to have applied only on 15.06.2024.

3.12. Referring to the letter dated 04.12.2024 of the Petitioner to the Headquarters South Western Air Command, he submitted that in the said letter it has been written that "*The revised application, along with the corrections, was resubmitted and delivered to your office on 06.08.2024*". Therefore the revised application by the Petitioner was sent to the Headquarters South Western Air Command only on 06.08.2024. He further submitted that there is no delay on the part of Air Command, the Petitioner has made delay in making application.

3.13. He further submitted that the reliance placed by the Petitioner on the Order of the Commission in case No. 2462 of 2025 is not correct, in that case the Petitioner has made application within 2 months from the issuance of the

Notification of MOD *"No GO/ No WTG Zone"*. In the present case, the Petitioner has made delay in making application for NOC to Air Command.

3.14. With regard to delay due to frequent changes in GIS bays sequence at the behest of GETCO and other RE developers, he submitted that there is no issue from September 2023. The meeting in September 2023 was in relation to the make of equipment and all the parties agreed to SIEMENS. He further submitted that the meeting on 22.02.2024 was to coordinate and the bay sequence was *inter alia* decided. The bay sequence decided on 22.02.2024 was the same as understood in September 2023. Therefore there was no change at this stage.

3.15. He further submitted that the revision was necessitated at the behest of M/s Cleanmax, who cited lack of inputs from the Petitioner, Suzlon, vide letter dated 29.07.2024 and requested for bay swapping with Suzlon to proceed with the evacuation as planned. Therefore, the Respondent No. 1, GETCO, convened a meeting on 09.08.2024 with M/s Cleanmax and the Petitioner for discussion of bay swapping, as requested by M/s Cleanmax and pursuant to deliberations, the request for bay swapping was allowed and the same was agreed by the Petitioner and no objection was raised at the time of meeting.

3.16. He further submitted that the Petitioner had not obtained any vendor approval and did not submit the drawing for approval. He further submitted that the representation by another developer, M/s Cleanmax Vayu, it was the Petitioner who was causing the delay in common drawing approval. M/s Cleanmax on 03.07.2024 wrote to GETCO requesting for approval of common drawing for Petitioner and other two generators except Suzlon and GETCO vide letter dated 22.07.2024 and reiterated that drawing are not submitted. The part layout plan, section and SLD in respect of M/s Cleanmax, M/s. Morjar and M/s. OP Wind was submitted for approval in August-2024 which

was duly granted on 11.09.2024. However, drawing for the Petitioner has not been submitted.

3.17. With regard to delay due to tariff vacuum for wind power projects in Gujarat is concerned, he submitted that the Tariff Order dated 30.04.2020 read with Order dated 26.05.2020 for Wind Power projects was applicable for the control period upto 31.03.2020. Therefore, at the time the Petitioner applied for connectivity and obtained Stage-I and Stage-II connectivity was all after the expiry of the earlier Tariff Order.

3.18. He further submitted that it was Petitioner's choice to obtain connectivity and it cannot then claim inability to set up the project due to alleged lack of investors. The issues of financing etc. cannot be claimed to be unforeseen or reasons beyond the control of the Petitioner. He submitted that the alleged uncertainty claimed is the absence of Tariff Order which was already submitted was not unforeseen since the Period was always known to the Petitioner even when it applied for connectivity.

3.19. He submitted that Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 had already been notified therefore it is not clear whether there was any uncertainty. Further the Green Open Access Regulations,2024 provided for banking charges as per the Regulations.

3.20. He further contended that the contention now made on the investors is contrary to the Petitioner's undertaking dated 03.06.2023, submitted along with the Stage-II application, as required under the procedure dated 07.01.2023, wherein it was stated that the source of funding was "*Internal accruals*"

3.21. He further submitted that the inability of the Petitioner to find customers/investors etc. is not a reason to justify the delay in development

of evacuation facility / power project nor it to be unforeseen or equivalent to force majeure.

4. Heard the parties. We note that the present Petition has been filed by the Petitioner under Section 86 of Electricity Act, 2003 read with Order No. 05/2024 dated 31.08.2024 "*Tariff Framework for Procurement of Power by Distribution Licensees and Others from Wind Power Projects for the State of Gujarat*" passed by the Commission seeking extension of Scheduled Date of Commissioning (SCOD) of infrastructure being developed by the Petitioner for evacuation of power from its 200 MW wind farm located at Jamjodhpur to 220 kV Kalavad sub-station of Respondent/ GETCO, on account of occurrence of Force Majeure events.

5. We have considered the submissions made by Ld. Advocate appearing on behalf of the Petitioner and Ld. Advocate appearing on behalf of the Respondent GETCO at length. Both the parties have made their submissions and completed their arguments in the matter. Parties are directed to file their written submissions, if any, within 4 weeks' time. The matter is now reserved for Final Order.

6. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 06/08/2025.