

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

IA No. 28 of 2023 in Petition No. 2221 of 2023

In the matter of:

Interlocutory Application seeking ad interim ex-parte interim relief.

And

IA No. 29 of 2023 in Petition No. 2221 of 2023

In the matter of:

Interlocutory Application seeking urgent listing of Petition No. 2221 of 2023.

Petitioner : Project Twelve Renewables Power Private Limited
Represented by : Ld. Sr. Adv. Mr. Rashesh Sanjanwala alongwith Ld.
Advocates Mr. Aniket Prasoon, Mr. Rishabh
Bhardwaj, Mr. Mohit Gupta
V/s.
Respondent : Gujarat Energy Transmission and Corporation Limited
Represented by : Mr. Y.J. Gamit and Mr. Vasant Patel

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S.R. Pandey, Member**

Date: 12/06/2023

Daily Order

1. The matter was kept for hearing on 08.06.2023.
2. Ld. Sr. Adv. Mr. Sanjanwala, appearing on behalf of the Petitioner at the outset submitted that the present matter is filed by the Petitioner under Section 86(1)(f) of the Electricity Act read with Regulation 45 of GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011 and Regulations 80 and 85 of GERC (Conduct of Business) Regulations, 2004 seeking condonation of delay of 9 days in submission of the signed Connection Agreement as per Clause 9.7 of the Detailed Procedure for "Grant of Connectivity to Projects based on Renewable Sources to Intra-State Transmission System" issued by the

Commission under the GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011. It is submitted that the Petitioner and GUVNL has entered into the Power Purchase Agreement dated 15.12.2022 and as per provisions of the PPA, the SCOD of the project is 14.12.2024 and therefore, the Petitioner is required to commission the project by undertaking necessary activities including obtaining required interconnection facilities in coordination with the Respondent GETCO for setting up the project.

- 2.1. It is further submitted that the Petitioner has applied to the Respondent GETCO for Stage-I & Stage-II connectivity simultaneously for the project on 21.01.2023 at 220 KV Charkha Substation and also submitted the Bank Guarantee to the Respondent GETCO. It is submitted that the Respondent GETCO vide its letter dated 31.01.2023 and 16.02.2023 has granted Stage-I & Stage-II connectivity respectively to the Petitioner at 220 KV Charkha Substation. The Respondent GETCO vide its letter dated 16.02.2023 *interalia* stated that a meeting will be conducted by GETCO subsequent to payment of estimate of supervision charges.
- 2.2. It is further submitted that the Respondent GETCO granted Stage-II connectivity to the Petitioner for the Project on 16.02.2023, the Respondent GETCO was required to intimate the estimate of work required to be carried out at Connectivity Substation to the Petitioner by 18.03.2023 and the Petitioner was required to make payment of the same as well as sign the Connection Agreement by or before 22.04.2023.
- 2.3. It is submitted that the Respondent GETCO vide its letter dated 17.03.2023 informed the Petitioner regarding the provisional estimate of works for evacuation of 140 MW wind power from the Project and also provided a draft agreement to the Petitioner for execution of the same. The Respondent GETCO also conveyed that the Petitioner is required to pay the aforesaid estimate within 30 days and sign the Connection Agreement within 5 days thereafter. It is submitted that the agreement shared by GETCO was a sample work agreement to be executed between the Petitioner and GETCO vide its letter dated 17.03.2023. However, the Petitioner was under the impression that the sample work agreement was in fact the connection agreement that is required to be executed as per Clause 9.7 of the Detailed Procedure.
- 2.4. It is further submitted that the Petitioner made payment of estimate to GETCO on 13.04.2023 and the same was also conveyed to GETCO on 17.04.2023. Further, the Petitioner also provided the draft of the agreement by GETCO on 17.03.2023 and requested the Respondent GETCO to confirm the draft and its availability for executing the same.
- 2.5. It is further submitted that the Respondent GETCO has informed the Petitioner on 18.04.2023 that the draft agreement provided by the Petitioner was not the Connection Agreement and the same is available on the website of the Respondent GETCO. Accordingly, the Petitioner has downloaded the said draft Connection Agreement from the website of the Respondent and prepared to submit the same to the Respondent in compliance to provisions of the Clause 9.7 of the Detailed Procedure. It is submitted that

the Petitioner was under the mistaken belief that the execution of the Connection Agreement would be pursuant to GETCO confirming the receipt of supervision charges as the payment was made to Amreli division of GETCO. It was clarified by the Respondent GETCO that payment receipt of the estimate is not a pre-requisite for signing of the Connection Agreement. Thereafter, the Petitioner has signed the copy of the Connection Agreement on 28.04.2023 with the Respondent GETCO and submitted the signed copies of the Connectivity Agreement to the Respondent on 01.05.2023. It is also submitted that the Petitioner met with the officials of GETCO on 26.04.2023 to discuss in detail the exact scope of the work to be done for evacuation of power from the Project.

- 2.6. It is further submitted that the Petitioner was under impression that the Stage-II connectivity granted to the Petitioner on 16.02.2023 is valid despite being there was delay of 9 days on the part of the Petitioner in submission of the Connection Agreement as per Clause 9.7 of the Detailed Procedure. However, GETCO vide its letter dated 31.05.2023 cancelled the Stage-II connectivity of the Petitioner as the Petitioner had not complied with the timeline stipulated in Clause 9.7 of the Detailed Procedure for submission of the signed connection agreement i.e. by or before 22.04.2023.
- 2.7. It is submitted that pursuant to the above, Charkha substation of the Respondent was once again included in the list of stations with available capacity for RE integration. Accordingly, the Petitioner vide its letter dated 31.05.2023 conveyed the Respondent that the delay in submission of the Connection Agreement was unintentional and bonafide and accordingly requested GETCO to not alter the status quo of the connectivity granted to the Petitioner and to execute the Connection Agreement with the Petitioner. Further, as a measure of abundant caution, the Petitioner on 31.05.2023 itself once again applied for Stage-I and Stage-II connectivity for the Project from the Charkha Substation of the Respondent. However, on 02.06.2023, the Respondent GETCO has rejected the Petitioner's application dated 31.05.2023 for Stage-I connectivity.
- 2.8. It is submitted that the delay of 9 days in submission of the signed Connection Agreement to the Respondent GETCO is bonafide and accordingly, the Petitioner is entitled to extension of time and also GETCO's letter dated 31.05.2023 cancelling the Petitioner's Stage-II connectivity granted vide letter dated 16.02.2023 ought to be withdrawn as the Petitioner has filed a fresh application on 31.05.2023 seeking Stage-I and Stage-II connectivity for the Project from Charkha Substation in accordance with the Detailed Procedure.
- 2.9. Based on the above, it is submitted that the Petitioner has filed the present IA No. 28 of 2023 seeking ad-interim exparte relief, including directing the respondent to maintain status quo with respect to available capacity of 140 MW at the Charkha Substation during the pendency of Petition as the Petitioner has suffered severe hardships associated with allocation of capacity at the Charkha Substation to any other applicant which is a time sensitive issue.
3. Mr. Y.J. Gamit, appearing on behalf of the Respondent GETCO, submitted that the Petitioner had applied for Stage-I & Stage-II connectivity for its project to the

Respondent GETCO on 21.01.2023 at Charkha Substation and Stage-II connectivity was granted to the Petitioner and subsequently executed connection agreement dated 01.05.2023 for evacuation of 140 MW Wind Power from the Petitioner's power plant at 220 KV Charkha Substation of GETCO. It is further submitted that as per Clause 9.7 of the approved procedure of RE connectivity of the Commission, the STU has to issue the requisite estimate for the work like Bay construction and/ or other works required to carry out at Connectivity Substation to the Stage-II Connectivity grantee within 30 days of issuance of Stage-II connectivity grant letter and the Stage-II Connectivity grantee shall also pay the estimate within 30 days and to sign the Connection Agreement within 5 days as per the approved Procedure for RE Connectivity. Thus, the whole process to be completed within 65 days from the date of issuance of intimation of grant of Connectivity and no extension of time is to be granted for payment of estimate and signing of agreement for Connectivity to Transmission system. Since the Petitioner has not complied with the said timeline for submissions of connection agreement to the Respondent GETCO, the stage - II connectivity of the Petitioner stand revoked and cancelled by the Respondent GETCO in accordance with the approved Procedure for RE Connectivity.

- 3.1. In response to the Petitioner's plea to maintain status quo with respect to available capacity of 140 MW of Charkha Substation, it is submitted by the Respondent that approval of connectivity to the STU system is being given based on availability of evacuation capacities in the network cluster. It is further submitted by the Respondent that at present, capacity allocated earlier to the Petitioner at Charkha Substation is now allocated to other developers willing to evacuate power at the other location in the cluster network of the Charkha Substation due to cancellation of the allocated capacity at Charkha Substation to the Petitioner on account of the reasons mentioned above. Since, as on date, there is no capacity available in Charkha Substation as well as in the cluster network of the Charkha Substation and hence, there is no question of any capacity available with the Charkha Substation as pleaded by the Petitioner. He also objected the status quo pleaded by the Petitioner stating that the Respondent want to file its reply in the matter as the copy of Petition received by the Respondent yesterday only i.e., on 07.06.2023. The representatives appearing for the Respondent also agreed to file necessary submissions on affidavit on this factual aspect.
- 3.2. It is further submitted that the Counsel for the Respondent has circulated a letter dated 07.06.2023 through email seeking adjournment in this matter on account of personal difficulty. Moreover, IA No. 28 of 2023 and IA No. 29 of 2023 in Petition No. 2221 of 2023 was circulated to them only on 07.06.2023. Accordingly, it is requested that the Commission while accommodating the Respondent in the matter, may also grant some time to file the reply in the matter.
4. We have considered the submissions made by the parties. We note that the Petitioner has filed two IAs being IA No. 28 of 2023 and IA No. 29 of 2023 Petition No. 2221 of 2023. The IA No. 28 of 2023 is filed seeking ad interim ex-parte relief while IA No. 29 of 2023 is filed for urgent listing of Petition No. 2221 of 2023.

- 4.1. We note that the Respondent has been served a copy of Petition and IAs one day prior to date of hearing by the Petitioner and the Respondent wants to file reply in the matter alongwith details regarding factual status of connectivity at the Charkha Substation as on today. Therefore, considering the submissions during the course of hearing and request of the Respondent GETCO to enable them to file its reply to Petition and IA filed by the Petitioner alongwith details regarding factual status of connectivity at the Charkha Substation as on today, the Respondent GETCO is directed to file the same in the present matter, within weeks' time from the date of hearing with a copy to the Petitioner. The Petitioner is also at liberty to file its rejoinder reply, if any, with a copy to the Respondent in the present matter.
- 4.2. The Petitioner has also filed another IA being I.A. No. 29 of 2023 for urgent listing of Petition No. 2221 of 2022. The Commission has scheduled the hearing in Petition No. 2221 of 2023 on 20.06.2023, accordingly prayers sought in IA No. 29 of 2023 is satisfied. Hence, IA No. 29 of 2023 in Petition No. 2221 of 2023 stand disposed of.
5. Next date of hearing is on 20.06.2023 at 12:30 hours.
6. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar
Date: 12/06/2023.