

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1998 of 2021.

In the matter of:

Petition seeking extension of Scheduled Commercial Operation Date (SCOD) on (i) account of Force Majeure Events and (ii) delays solely attributable to Gujarat Energy Transmission Corporation and consequential reliefs under Section 86(1)(f) of the Electricity Act, 2003 read with Article 10.4 of Power Purchase Agreement executed between Goodwatts WTE Jamnagar Pvt Limited and GUVNL.

Petitioner : Goodwatts WTE Jamnagar Pvt. Limited
Represented by : Ld. Sr. Adv. Mr. Rashesh Sanjanwala and
Advocates Ms. Saunak Rajguru, Ms, Priyakshi
Bhatnagar, Mr. Tarak Damani alongwith Mr.
Krutarth Oza, Mr. Anup Pillai, Mr. Ashish Mehta

V/s.

Respondent No. 1 : Gujarat Urja Vikas Nigam Limited
Represented by : Ld. Advocates Mr. Anand Ganesan and Ms. Kriti
Soni alongwith Mr. Kishore Lakhani

Respondent No. 2 : Jamnagar Municipal Corporation
Represented by : Nobody was present.

Respondent No. 3 : Gujarat Energy Development Agency
Represented by : Nobody was present.

Respondent No. 4 : Gujarat Energy Transmission Corporation Limited
Represented by : Mr. Shobhraj Jayswal

Respondent No. 5 : State Load Despatch Centre - Gujarat
Represented by : Mr. N.N. Shaikh and Mr. C.B. Rami

Objector No. 1 : Mr. Nitin Madam

Represented by : Mr. Mehul G. Rajput

Objector No. 2 : Utility Users' Welfare Association (UUWA)

Represented by : Nobody was present.

Objector No. 3 : Laghu Udyog Bharti – Gujarat (LUB)

Represented by : Nobody was present.

Objector No. 4 : MPSEZ Utilities Limited

Represented by : Mr. Anil Rabadia

CORAM:

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

Date: 26/05/2023

DAILY ORDER

1. The matter was heard on 28.04.2023.
2. Ld. Sr. Adv. Mr. Rashesh Sanjanwala, appearing on behalf of the Petitioner, submitted that during the last hearing it was agreed by the counsel of Respondent GUVNL to file submissions regarding the issue raised by the Petitioner for releasing balance 15% payment against the invoices raised for supply of power from the WtE project. It is argued that, despite having submitted an undertaking to the Respondent GUVNL, only 85% of the invoice amount is being released to the Petitioner without any justification for withholding the balance 15% amount.
 - 2.1. It is argued that although the Respondent GUVNL has filed its reply in this regard contending that averment of the Petitioner with respect to releasing only 85% of the invoice amount for generation & supply of power is not appropriate because according to GUVNL the Petitioner is seeking higher tariff pending determination of tariff applicable on the date of commissioning. Referring to reply filed by the Respondent GUVNL, Ld. Sr. counsel submitted that only one clause/Article of the PPA is being relied upon by GUVNL for releasing 85% of invoices raised by the

Petitioner. It is submitted that despite the grievance raised by the Petitioner regarding non-release of payment against the invoices raised, the Respondent GUVNL is not releasing the full payment, when the tariff issue is without prejudice to rights & contentions of both parties in this matter and subject to final decision. Therefore, there is no reason for withholding the balance payment of 15% by the Respondent GUVNL.

3. Ld. Adv. Mr. Anand Ganesan on behalf of the Respondent GUVNL contended that although submissions with regard to non-release of balance payments are filed and arguments advanced but agreed that the Respondent GUVNL will once again file an affidavit in this regard.
4. Mr. Anil Rabadia, appearing on behalf of the Objector No. 5 MPSEZ Utilities Limited (MUL), submitted that pursuant to last hearing held on 07.12.2022, the Objector MUL being distribution licensee had requested for impleadment as party Respondent in this matter. The Commission passed Daily Order dated 11.01.2023 and allowed the request of impleadment of MUL in the present matter and also directed the Petitioner to provide copy of the Petition alongwith all submissions & documents filed therein within 10 days from date of the Daily Order. However, till date, MUL has not received a copy of Petition, submissions & documents from the Petitioner in the present matter. It is requested that the Commission may once again direct the Petitioner to provide the copy of Petition alongwith all submissions & documents to the Objector MUL. It is further requested that the Commission may also grant four weeks' time to MUL to file submissions after receipt of the Petition, reply, rejoinder in reply etc. i.e. all documents on record.
5. Mr. Mehul G. Rajput, appearing on behalf of the Objector No. 4 Mr. Nitin Madam submitted that despite being direction in Daily Order dated 11.01.2023, Mr. Madam has also not received the copy of Petition, submissions & documents from the Petitioner in the present matter. It is requested that the Commission may direct the Petitioner to provide the copy of Petition alongwith all submissions & documents to the Objector Mr. Nitin Madam. It is further requested that the Commission may also grant some time to file submissions in this matter.

6. In response to the above contentions of the Objectors, Ld. Sr. Counsel for the Petitioner has agreed to provide copy of Petition alongwith all submissions & documents filed therein, to the above objectors, within week time and also to file compliance affidavit in this regard in the present matter.
7. We have considered the submissions made by the parties.
- 7.1. We note that during the hearing, the representatives appearing on behalf of MPSEZ Utilities Limited and Mr. Nitin Madam submitted that they have not received the copy of Petition, reply, rejoinder in reply and other submissions & documents on record, from the Petitioner till date despite directives of the Commission in its Daily Order dated 11.01.2023. We also note that Ld. Sr. Counsel for the Petitioner agreed to provide the same to the above objectors, within week time. Accordingly, let the same be served by the Petitioner to the above objectors, within week time from the date of this Order. The Petitioner is also directed to file compliance affidavit in this regard after serving the same to the Objectors. Also, Respondent GUVNL to provide copy of its reply/submissions in the present matter to them. Upon receipt of the same, MPSEZ Utilities Limited and Mr. Nitin Madam are at liberty to file their submissions, if any, with copy to other parties within four weeks. The Petitioner is also at liberty to file its rejoinder-in-reply, if any, on above.
- 7.2. The direction regarding no coercive action by the Respondent GUVNL till next hearing in earlier orders, also stands to be continued till next hearing.
- 7.3. In view of the above, we decide to adjourn the matter. Next date of hearing will be intimated separately.
8. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 26/05/2023.