

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 1489 of 2015**

**In the Matter of:**

**Petition under Section 86(1)(f) of the Electricity Act, 2003 read with Gujarat Electricity Regulatory Commission (Power Procurement from Renewable Sources) Regulation and application for amendment of the petition and to place on record the additional facts and documents.**

Petitioner : SITAC RE Private Limited  
27- B, Prithviraj Road, New Delhi - 110001.

Represented By : Learned Senior Advocate Shri Mihir  
Thakore, alongwith Advocate Shri Kunal  
Nanavati and Advocate Shri Nisarg Desai

Co-Petitioner : Jasdan Energy Private Limited,  
507-508 Ashok Estate, 24, Barakhamba  
Road, New Delhi - 110001.

Represented By : Learned Senior Advocate Shri Mihir  
Thakore, alongwith Advocate Shri Kunal  
Nanavati with Advocate Shri Nisarg Desai

V/s.

Opponent No. 1/Respondent : Gujarat Urja Vikas Nigam Limited,  
Sardar Patel Vidyut Bhavan, Race Course  
Circle, Vadodara, Gujarat.

Represented By : Learned Advocate Ms. Ranjitha  
Ramachandran, Shri A. N. Khambatta and  
Shri V. T. Patel.

Opponent No. 2/Respondent : Gujarat Energy Transmission Corporation  
Limited, Sardar Patel Vidyut Bhavan,  
Race Course Circle, Vadodara, Gujarat

Represented By : Learned Advocate Ms. Ranjitha  
Ramachandran and Ms. Venu Birappa

**CORAM:**

**Shri Anand Kumar, Chairman**

**Shri P. J. Thakkar, Member**

**Date: 31/08/2020.**

**DAILY ORDER**

1. The matter was listed on 28.08.2020 for virtual hearing for mentioning /directions regarding amendment in Petition No. 1489 of 2015 through Video Conferencing, physical presence being not insisted on account of prevailing COVID 19 pandemic and containing its spread. The Petitioners and the Respondents were intimated regarding the said hearing through letter dated 11.08.2020 and thereafter the link for virtual hearing was also provided to them.
2. Leaned Senior Advocate Shri Mihir Thakore appearing on behalf of Petitioners submitted that pursuant to filing Petition No. 1489 of 2015, the Petitioners filed an amendment application in the main Petition before the Commission on 31.08.2016 seeking certain amendments in the captioned Petition including amending original prayer clause 'b'. He further submitted that the Petitioners vide original prayer clause 'b' were seeking refund of Liquidated Damages amounting to approximately Rs. 2.81 Crores already paid under protest along with the interest for 36 MW and waiver of Liquidated Damages for the remaining capacity of 142 MW.
  - 2.1. He submitted that during the pendency of the Petition some international investors evinced interest in investing in the Wind Power projects of the Petitioners and showed their willingness and readiness to invest. Therefore, the Petitioner vide its letter dated 28.08.2020 approached Respondent GUVNL regarding assignment of executed PPAs.

- 2.2. He submitted that the Respondent vide letter dated 29.01.2016 intimated the Petitioners about the total applicable LDs considering the cap of 365 days which was also paid by the Petitioners and therefore, by way of amendment application, the Petitioner is seeking refund of liquidated damages of Rs. 21.81 Crores already paid. He prayed that the Commission may allow the amendment application.
- 2.3. He submitted that the Petitioners have already completed their arguments and filed their submissions in the matter on the issue of amendment sought in the main Petition. He requested that the Commission may accordingly decide the issue of amendment considering the submissions already made earlier and based on record of the present Petition.
- 2.4. He submitted that the written submissions filed by Respondent No. 1 GUVNL regarding amendment application of the Petitioners has been filed as 'IA No. 04 of 2016 in Petition No. 1489 of 2015' and therefore, if the Commission desires the written submissions already filed by the parties on the amendment issue can be resubmitted/repeated with fresh date by the respective party for which one week time may be granted by the Commission.
3. Learned Advocate Ms. Ranjitha Ramachandran, on behalf of the Respondent GUVNL, submitted that the Petitioners have filed the application for amendment of Petition No. 1489 of 2015 and the Respondents are objecting to the same because the application for amendment is an attempt of extending the scope of original Petition, particularly the prayer on the issue of liability to pay liquidated damages and accordingly, the application for amendment being malafide and contrary to law, the same is liable to be dismissed.
- 3.1. She further submitted that the Respondents have already filed their reply and written submissions on the amendment issue. She submitted that the Written Submissions dated 16.12.2016 filed on behalf of Respondent No. 1 have been inadvertently numbered and filed as 'IA No. 04 of 2016 in Case No. 1489 of 2015' and accordingly paging of written submission was also given by the Respondent, although the same are on the issue of amendment sought by the Applicants/Petitioners, which may be considered by the Commission in Petition

No. 1489 of 2015 or if Commission permits the written submissions already filed by the Respondents on the issue of the amendment can be resubmitted or repeated with fresh date in the main petition i.e. Petition No. 1489 of 2015.

- 3.2. She submitted that as the Respondents have already completed their arguments and filed their submissions on the issue of amendment in the present matter, Commission may accordingly decide the matter of amendment sought by the Applicants/Petitioners considering the submissions already made earlier and based on record of the present Petition. She also requested the Commission to allow one week time to the Respondents to resubmit/repeat earlier filed written submission with fresh date to the Commission which is also agreed by the Counsel of the Petitioners.
  
4. We note that the present matter was relisted for mentioning/directions. We further note that the Petitioners and the Respondents submitted that they have already made their submissions earlier and no further submissions are required to be made on the issue of amendment of main matter sought by the Petitioners. We further note that written submissions have also been filed by both the parties. However, Counsel for Respondents submitted that the Written Submissions dated 16.12.2016 filed on behalf of Respondent No. 1 have been inadvertently numbered and filed as 'IA No. 04 of 2016 in Case No. 1489 of 2015', although the same are on the issue of amendment sought by the Applicants/Petitioners, which may be considered by the Commission in Petition No. 1489 of 2015 or if Commission permits the written submissions already filed by the Respondents on the amendment issue can be resubmitted or repeated with fresh date in main petition i.e. Petition No. 1489 of 2015. Both the parties also submitted that the Commission may decide the issue of amendment in the present matter based on the submissions already made and the record of present Petition. We also note that Counsel for the Petitioners also submitted that if the Commission desires, the written submissions already filed by them on the amendment issue can be resubmitted or repeated with fresh date in main petition. Hence, we direct the Petitioners and the Respondents to resubmit/refile their written submissions, which have been filed earlier with fresh date, within a week time from the date of

this Order. Moreover, on the basis of the submission of the parties that they have already made their submissions earlier and no further submissions are required to be made on the issue of amendment of main matter, the matter on issue of amendment sought by the Petitioners is now reserved for order.

5. We order accordingly.

**Sd/-**  
**[P. J. THAKKAR]**  
**Member**

**Sd/-**  
**[ANAND KUMAR]**  
**Chairman**

Place: Gandhinagar.

Date: 31/08/2020.