

BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR

IA No. 05 of 2021 in Petition No. 1904 of 2020

And

Petition No. 1904 of 2020

In the matter of:

Application on behalf of the Petitioner/Applicant for the Amendment of the Petition No. 1904 of 2020

And

Petition under Section 61 (h) read with Section 86 of the EA, 2003 seeking amendment in the tariff framework for procurement of power by distribution licensees and others from Solar Energy Projects for the State of Gujarat notified by the Commission vide Order No. 3 of 2020 dated 08.05.2020.

Petitioner : Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan, Race Course Circle,
Vadodara 390 007.

Represented by : Ms. Sailaja Vachhrajani

V/s.

Respondent No. 1 : Gujarat Energy Transmission Corp. Limited

Represented By : Nobody was present.

Respondent No. 2 : Uttar Gujarat Vij Company Limited

Represented By : Shri R. R. Patel and K. D. Barot

Respondent No. 3 : Dakshin Gujarat Vij Company Limited

Represented By : Shri N. D. Chaudhary

Respondent No. 4 : Paschim Gujarat Vij Company Limited

Represented By : Shri J. J. Gandhi

Respondent No. 5 : Madhya Gujarat Vij Company Limited

Represented By : Nobody was present.

Respondent No. 6 : Torrent Power Limited, Ahmedabad
Represented By : Shri Chetan Bundela, Shri Jignesh Langalia and Ms. Luna Pal

Respondent No. 7 : Torrent Power Limited, Surat
Represented By : Shri Chetan Bundela, Shri Jignesh Langalia and Ms. Luna Pal

Respondent No. 8 : Torrent Power Limited, Dahej
Represented By : Shri Chetan Bundela, Shri Jignesh Langalia and Ms. Luna Pal

Respondent No. 9 : Deendayal Port Trust
Represented By : Nobody was present.

Respondent No. 10 : MPSEZ Utilities Limited
Represented By : Nobody was present.

Respondent No. 11 : Jubilant Infrastructure Limited
Represented By : Nobody was present.

Respondent No. 12 : Aspen Park Infra Vadodara Pvt. Limited
Represented By : Nobody was present.

Respondent No. 13 : GIFT Power Company Limited
Represented By : Shri Rakesh Inala

Respondent No. 14 : State Load Dispatch Centre- Gujarat
Represented By : Shri A. B. Rathod and Shri K. J. Bhuvra

Respondent No. 15 : Gujarat Energy Development Agency (GEDA)
Represented By : Nobody was present.

Objector No. 1 : Federation of Renewable and Consumers of Energy
Represented By : Shri Kirtikumar Shah

Objector No. 2 : Nice and New Abrasive Industry
Represented By : Shri Anup Dudani

Objector No. 3 : Narmada Steel
Represented By : Shri Anup Dudani
Objector No. 4 : Narmada Techno Cast
Represented By : Shri Anup Dudani
Objector No. 5 : M/s Viramgam Wires
Represented By : Ms. Smita Ramesh Patel
Objector No. 6 : Madhu Silica Pvt. Limited
Represented By : Shri Vikram Shah
Objector No. 7 : Renesys Power Systems Pvt. Limited
Represented By : Shri Jay Mehta and Ms. Minati Patel
Objector No. 8 : Kanoda Energy Systems Pvt. Limited
Represented By : Shri Manit Brahmhatt

CORAM:

**Anand Kumar, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 30.03.2021

DAILY ORDER

1. The above matters were listed for hearing on 18.03.2021 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.
2. Shri Kirtikumar Shah, on behalf of the Objector No. 1, Federation of Renewable and Consumers of Energy submitted that he has filed his submissions with regard to the present Petition stating that as per Section 181 (iii) of the Electricity Act, 2003, Section 23 of the General Clauses Act, 1897 and the Rules published by Ministry of Power, Government of India dated 09.06.2005, it is mandatory that previous publication is required by the Commission. He further submitted that Government of

Gujarat vide GR dated 01.09.2020 has amended the policy for MSME Enterprises and accordingly, the Petitioner GUVNL has filed the present Petition seeking amendments for which in terms of above statutory framework, prior to issuing any Regulation under the Electricity Act including any amendment thereto by the Commission, it is necessary that draft Regulation is prepared and published by the Commission for providing an opportunity to public/stakeholders to file their comments/objections/suggestions to the proposed draft Regulations and thereafter providing opportunity of hearing. Thus, issuing or amending any Regulation is subject to condition of previous publication. He also submitted that the distribution licensees are also joined as parties to the present matter. He submitted that as such, the Commission has not undertaken previous publication for the amendment sought by the Petitioner in respect of Solar Tariff Order dated 08.05.2020, Suo Motu Order No. 6 of 2020 and GERC Net Metering Regulations.

- 2.1. He submitted that in the absence of any such draft amendment for the above, it is not possible to file any reply/comment on it. He also submitted that the Government of Gujarat has also issued Solar Policy, 2021 for which separate Petition is pending before the Commission. He submitted that the Commission may undertake previous publication once and for all instead of piecemeal amendments considering relevant provisions of the policies issued by the Government and invite the comments/suggestions from all the stakeholders including DISCOMs so that precise and consolidated submissions can be made.
3. Shri Anup Dudani, on behalf of the Objectors No. 2, 3, and 4 submitted that they are having HTP-4 connections and have applied for captive use at these connections under Solar Power Policy 2015 for which land is also purchased by them on 01.10.2020 on the basis that 30 days banking period is provided under the provisions of said Policy considering the feasibility aspects. However, now as per the GR issued by Government of Gujarat, amending the policy for MSME, the banking period is only one day instead of 30 days banking which was available as per previous policy. He submitted that NA permission is received for the land purchased, all other procedures are also completed and they have also made investments in this regard based on the provisions of earlier policy but now the same is not feasible as per the amended policy. He further submitted that they have

filed their submission jointly on behalf of three companies viz. (1) Nice and New Abrasive Industry, (ii) Narmada Steel and (iii) Narmada Techno Cast, which are MSME units and intending to set up the Solar plant for Captive use. He submitted that their only request to this Commission is that the accounting/banking period may be allowed to 30 days to them as per old Policy.

4. Shri Jay Mehta and Ms. Minati Patel, on behalf of the Objector No. 7, Renesys Power Systems Pvt. Limited, requested that the Commission may allow those projects which were registered till December 2020 under the Solar Policy 2015 i.e. projects registered under old Policy for which CIG has been done and are only awaiting Net metering and fitments etc. from the distribution licensee. Ms. Minati Patel further submitted that Petition filed by GUVNL states that the new policy is applicable from the date of Order. Therefore, there is confusion with regard to the projects which were already registered under the Solar Policy 2015 because there are projects which are already installed and for which CIG has been done but only Net-meter fitment is pending. Hence, such projects under the old Policy of 2015 need to be allowed because the New Policy has come up suddenly despite the expectation that the old policy will be extended upto March, 2021.
 - 4.1. She requested that the Commission may allow such projects where Electrical Inspection has been carried out and only Net-metering fitment is pending because otherwise the commercial benefits of Solar Policy-2015 will not be available, if the process of installing Net-Metering is not done in time by the distribution licensees. With regard to the capacity / type of Solar Projects, she submitted that there are certain rooftop captive projects of around 200 kW and also certain ground mounted projects of 1 MW to 2 MW. She requested that the Commission may issue necessary directions to the distribution licensees for immediately installing Net-metering fitments in respect of above projects before 31.03.2021 considering them under Old Solar Policy, 2015, so that such projects get all the commercial benefits alongwith the benefits available under Solar Policy, 2015.
5. Shri Vikram Shah, on behalf of the Objector No. 6, Madhu Silica Pvt. Limited, submitted that from the consumers' point of view, there is no clarity as to which policy of the Government is currently prevailing. Apart from the prayers made by the

Petitioner in the present Petition, there is also a New Policy declared on 29.12.2020 named as "Gujarat Solar Power Policy, 2021. He submitted that as on today, there is existence of GR dated 26.09.2019, Commission's Order dated 08.05.2020, Suo-Motu Order No. 06 of 2020 dated 05.08.2020 of the Commission, GR dated 01.09.2020 and Gujarat Solar Power Policy, 2021 regarding which there is no clarity with regard to applicability of various provisions like in respect of capacity restrictions, banking period, energy accounting, cross subsidy surcharge etc. At present, those who have set-up or planned for setting up Solar Projects are not sure regarding applicability of Cross Subsidy Surcharge, whether banking is on monthly basis or 15 minutes basis because now as per amended GR dated 01.09.2020, the settlement of energy is from morning 07:00 hours to evening 18:00 hours.

- 5.1. He further submitted that apart from the present Petition, the Petitioner has also filed another Petition seeking amendment in Solar Tariff framework & Net Metering Regulations being Petition No. 1936 of 2021 in respect of New Solar Policy, 2021. He submitted that if the Commission decides the present Petition which is contrary to provisions of the New Policy which is also pending for decision by the Commission. Therefore, the present Petition is infructuous and there is no rationale to decide the present Petition as the prayers of the Petitioner in the present Petition have already changed considering the Solar Power Policy 2021.
- 5.2. He also submitted that the earlier definition of 'MSME' in supersession of the notification of the Government of India, Ministry of Micro, Small and Medium Enterprises dated 29.09.2006 is amended vide Notification published in Government Gazette dated 01.06.2020, copy of which is also filed with their submissions dated 02.03.2021. He submitted that accordingly, the new definition of 'MSME' also requires to be incorporated in the relevant draft Order/Regulation of the Commission. He submitted that the issue raised regarding consumers under HTP-IV is also relevant because as per Tariff Schedule of the Commission, HTP-IV is applicable for supply exclusively during night hours from 10 PM to 6 AM only. Now as per new Solar Policy, group of consumers are not allowed setting up solar project. He further submitted that in light of Petition No. 1936 of 2021 filed by Petitioner GUVNL for new Solar Power Policy, 2021 declared by the Government of Gujarat,

the present Petition becomes infructuous and the same cannot be entertained at present.

6. Shri Chetan Bundela, on behalf of the Respondents No. 6, 7 and 8 submitted that two aspects need to be pointed out for the consideration of the Commission. First, the Commission may give ample clarity regarding the applicability of its Order, since the present Petition has been filed in respect of amendment of Solar Policy 2015 for which the Commission has already issued the new Tariff Orders, Tariff frameworks and Net Metering Regulations which are existing as on date. He further submitted that as per the provisions of the Policy, the operative period is specified according to which the Solar power generators who have installed and commissioned the projects during the operative period shall become eligible to avail the benefits of the policy. Therefore, the Commission may give clarification regarding the applicability in its Order. Secondly, with regard to extension of benefits of banking facility from 15 minutes time block basis to 11 Hours' time block basis, the same is having commercial implications on the licensees. Therefore, the Commission may decide that who is going to bear the cost in terms of such facility to be provided to any such eligible entity. He also submitted that the Commission may consider all such aspects and allow TPL to file their submissions in the matter.
7. Ms. Sailaja Vachhrajani, on behalf of the Petitioner GUVNL, submitted that with regard to the present Petition, there appears to be some confusion amongst the objectors. She submitted that the present matter is not related to the New Gujarat Solar Power Policy, 2021 notified by the Government of Gujarat but is limited in respect of the GR dated 01.09.2020 notified by Government of Gujarat for MSME unit for whom amendments in relation to two aspects, viz., (i) Energy Accounting for which as per earlier GR dated 26.09.2019, the energy accounting for the MSME has to be done on 15 minutes' time block basis and the relevant clause has now been revised vide GR dated 01.09.2020 wherein it has stated that instead of 15 minutes' time block, it will be based during the time period from 7 hours to 18 hours and (ii) Rate for purchase of surplus power by the distribution licensee for which earlier the rate specified vide GR dated 26.09.2019 was Rs. 1.75 per unit which has been now revised in GR dated 01.09.2020 to Rs. 2.25 per unit.

- 7.1. On a query from the Commission that if the Commission allows the present Petition then how many beneficiaries will be there who are entitled to avail the benefits of GR dated 01.09.2020, Ms. Sailaja Vachhrajani, submitted that no such details are available and requires to be ascertained. She submitted that the details need to be collected whereafter, the Commission can be updated regarding the numbers of projects that are installed and commissioned during the period from 01.09.2020 to 31.12.2020. She submitted that the present Petition is only for the operative period from 01.09.2020 to 31.12.2020 and accordingly, the Solar projects which have been installed and commissioned by MSME during this period are eligible apart from those which are already commissioned prior to 01.09.2020 having the option to avail the benefits as per GR dated 01.09.2020. On a further query from the Commission that what happens in terms of the new Solar Policy issued by the Government and whether the same provisions are to be continued or need to be discontinued, she replied that in the new Policy, the provisions are slightly different since, in the New Policy, for captive users, it is provided that HTP or EHV consumers the energy accounting shall be done from 7 hours to 18 hours basis of the same day, whereas for LT Demand based consumers, it shall be 7 hours to 18 hours of the billing cycle. However, the amendments sought by the Petitioner in the present Petition with regard to GR dated 01.09.2020 for those Solar projects of MSME which are commissioned during 01.09.2020 to 31.12.2020 is applicable to all categories of MSME consumers i.e. both HT and LT and limited to HT consumers as per new Solar Power Policy, 2021. She submitted that as per the GR dated 01.09.2020, it is applicable to any category of MSME consumer i.e. HT and also applicable to LT consumers since there is no difference between HT and LT categories provided in the said GR.
- 7.2. Further, in reply to the query of the Commission with regard to the significance of the present Petition wherein comments/suggestions through the public notices have been invited by the Petitioner but nobody has claimed the benefits as per GR dated 01.09.2020, which means there are no beneficiaries of this GR and in that case, why the Petitioner is insisting upon the present Petition and why not opting for amendments only as per New Solar Policy, she submitted that the Petitioner is not sure regarding whether there are any beneficiaries under this GR but has

approached the Commission pursuant to GR dated 01.09.2020 notified by Government of Gujarat and the Petitioner will be required to implement the same, in case any project is commissioned under the operative period of said GR from 01.09.2020 to 31.12.2020 or opts for availing the provisions of said GR despite being commissioned under previous GR. She submitted that the Commission may take a view on it accordingly.

- 7.3. With regard whether the Petitioner has any objection to the submissions made by Shri Kirtikumar Shah for necessity of previous publication/draft amendments to be issued first, she submitted that the Petitioner has no objection to the same and the Commission may decide as per procedures required to be followed as per law. She further submitted that with regard to the issue of HTP-IV not getting benefited under this GR raised by Ms. Minati Patel, on behalf of the Objector No. 7, Renesys Power Systems Pvt. Limited and Shri Vikram Shah, she submitted that the Petitioner has not received any submissions in this regard and requested that the Commission may direct them to make available the copy of submissions filed by them so that appropriate reply shall be accordingly filed by the Petitioner within 10 days' time from receipt of same.
- 7.4. She further submitted that pursuant to the Commission's directives in Daily Order dated 03.02.2021, the Petitioner has complied with the same by filing an application being IA No. 05 of 2021, wherein the Petitioner has impleaded the distribution licensees, STU-GETCO, SLDC and GEDA as a party Respondents in the main petition and also amended the prayer clause to include the prayer for making relevant amendments in the Net Metering Regulations since earlier it was prayed to issue appropriate amendments in Tariff framework notified vide Orders dated 08.05.2020 and 05.08.2020 to implement GR dated 01.09.2020 notified by Government of Gujarat.
- 7.5. On a query from the Commission as to which provisions, clauses or part of Regulations are desired to be amended by the Petitioner in the GERC Net Metering Regulations and Tariff framework for Solar projects and any draft for the same is proposed by the Petitioner, she submitted that the Petitioner has not filed any draft amendments with in this regard and the Commission may issue appropriate draft

amendments considering the present Petition in respect of GR dated 01.09.2020 wherein two clauses i.e. Energy Accounting and Rate of surplus power have been amended by the Government of Gujarat in the GR notified and the Petitioner has filed the present Petition in terms of the said GR seeking amendments.

8. We note that an application being IA No. 05 of 2021 has been filed vide affidavit dated 22.02.2021 by the Applicant/Petitioner seeking amendment in the captioned Petition.
9. The prayers in the aforesaid application being IA No. 05 of 2021 in Petition No. 1904 of 2020 filed by the applicant seeking amendment in the captioned Petition with regard to (i) Cause Title (ii) Adding para viii (a) in the captioned Petition (iii) addition prayer (c) after para (ix)(b) and renumbering earlier paras (ix)(c) and (ix)(d) as (ix)(d) and (ix)(e) are stated below:

- (a) The Cause title of the Petition may be replaced as follows:

“Petition under Section 61 (h) read with Section 86 of the Electricity Act, 2003 seeking amendments in the Tariff framework for procurement of power by distribution licensees and others from Solar Energy Projects and other commercial issues for the State of Gujarat notified by Hon’ble Commission vide Order No. 03 of 2020 dated 08.05.2020 and in the relevant provisions of GERC (Net-Metering Rooftop Solar PV Grid Interactive Systems) Regulations, 2016”

- (b) After Para Viii of the Petition, the following Para may be added:

“viii-a. The Petitioner submits that in order for the DISCOMS to implement the amendments to the Gujarat Solar Policy 2015 notified vide GR dated 01.09.2020, there is a need for issuing appropriate amendments in the GERC (Net-Metering Rooftop Solar PV Grid Interactive Systems) Regulations, 2016 notified by Hon’ble Commission. Accordingly, the Petitioner requests the Hon’ble Commission to initiate the appropriate proceedings for amendment in the said Regulations.”

- (c) After Para (ix)(b) of the Petition, the following prayer may be added:-

“(c) To initiate proceedings for appropriate amendments in the GERC (Net-Metering Rooftop Solar PV Grid Interactive Systems) Regulations, 2016 to

implement the amendments issued by State Government vide GR dated 01.09.2020 in Gujarat Solar Policy 2015

(d) The earlier Paras (ix)(c) and (d) may be renumbered as (ix)(d) and (e).

“(d)The Petitioner craves relief of the Hon'ble Commission to allow further submissions, prayers, additions and alterations to this Petition as may be necessary from time to time.

(e) Pass any other Order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.”

10. The facts mentioned in the aforesaid IA are stated below:
 - 10.1. The Applicant has filed the Petition seeking amendment in the Order No. 03 of 2020 dated 08.05.2020, in the matter of Tariff framework for procurement of power by distribution licensees and others from Solar Energy Projects and other commercial issues for the State of Gujarat notified by the Commission vide Order No. 03 of 2020 dated 08.05.2020. The Petition had been filed for giving effect to the modification notified by Government of Gujarat vide GR dated 01.09.2020 in relation to Solar Power Project set up by MSME (Manufacturing enterprises) for providing energy accounting on 7.00 hours to 18.00 hours on the same day instead of 15 minute time block basis as per earlier GR dated 26.09.2019. Further, the rate for compensation for surplus injection is amended to Rs. 2.25/Unit instead Rs. 1.75/Unit.
 - 10.2. It is submitted that the matter was heard by the Commission on 28.01.2021, wherein the Petitioner had submitted that the appropriate amendments in the relevant clauses of GERC (Net-Metering Rooftop Solar PV Grid Interactive Systems) Regulations, 2016 as amended from time to time needs to be carried out corresponding to the provisions of GR dated 01.09.2020 issued by Government of Gujarat.
 - 10.3. It is further submitted that the Commission after noting that the Petition does not refer to such prayer had granted liberty to file a separate Petition or amend the present Petition. The said Petition is already pending before the Commission and

the Applicant is seeking permission of this Commission to amend the captioned Petition with regard to (i) Cause Title (ii) Adding para viii (a) in the captioned Petition (iii) addition prayer (c) after para (ix)(b) and renumbering earlier paras (ix)(c) and (ix)(d) as (ix)(d) and (ix)(e) are stated above. The Applicant has also submitted that the present Amendment is necessary for adjudication of all issues arising out of GR dated 01.09.2020. The Applicant/Petitioner has also filed the amended Petition with the said IA No. 05 of 2021.

10.4. It is also submitted that, the Commission had directed impleadment of various parties in Order dated 03.02.2021 and accordingly the following parties are impleaded as Respondents to the Petition and has also filed the amended memo of parties and submitted that copy of the amended Petition is served to the Respondents.

- (1) Gujarat Energy Transmission Corporation Limited;
- (2) Uttar Gujrat Vij Company Limited
- (3) Dakshin Gujarat Vij Company Limited
- (4) Paschim Gujarat Vij Company Limited
- (5) Madhya Gujarat Vij Company Limited
- (6) Torrent Power Limited- Ahmedabad, Surat and Dahej,
- (7) MPSEZ Utilities Private Limited
- (8) Kandla Port Trust
- (9) Jubilant Infrastructure Limited
- (10) Aspen Infrastructure Private Limited,
- (11) GIFT Power Company Limited
- (12) State Load Despatch Centre
- (13) Gujarat Energy Development Agency

10.5. It is submitted that the present Application is bonafide and made in the interest of justice and no harm or prejudice would be caused to any party if the present Application is allowed.

11. Heard the parties. Based on the submissions made by parties, it emerged that the Petitioner has not received certain objections for which representation was made during the hearing. Moreover, the Petitioner has agreed to file certain other details.

We accordingly decide and direct the objectors who have not submitted their submissions/objections to the Petitioner to provide the copy of same within 10 days from the date of this Order. The Petitioner is at liberty to file its response, if any to the suggestions/objections received by it within 10 days after receipt of same.

12. We also note that apart from filing the aforesaid IA, the Petitioner has impleaded the distribution licensees, STU-GETCO, SLDC and GEDA as a party Respondents in the main Petition pursuant to the directives given by the Commission in its Daily Order dated 03.02.2021. Moreover, amended Petition as well as amended memo of Respondents to Petition No. 1904 of 2020 is also filed. Further, the Petitioner has issued public notice in two Gujarati viz. Divya Bhaskar & Sandesh and one English newspaper viz. Indian Express on 24.02.2021.
13. We note that the aforesaid IA is filed by the Applicant for adding prayer clause for seeking appropriate amendments in the relevant clauses of GERC (Net-Metering Rooftop Solar PV Grid Interactive Systems) Regulations, 2016, amending Cause Title of the Petition and addition of para viii (a) for which the Applicant has already submitted amended petition. We allow the aforesaid amendment sought by the Applicant and Order to take the amended Petition on record.
14. With this order, the application being IA No. 05 of 2021 in Petition No. 1904 of 2020 stands disposed of
15. The next date of hearing in main Petition will be intimated separately.
16. We order accordingly.

Sd/-
[S. R. PANDEY]
Member

Sd/-
[Mehul M. GANDHI]
Member

Sd/-
[ANAND KUMAR]
Chairman

Place: Gandhinagar.

Date: 30.03.2021.