

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1854 of 2020.

In the matter of:

**Petition under Section 86 (1) (b), (e) and (f) of the Electricity Act, 2003
and Regulation 26 of GERC (Conduct of Business) Regulations, 2004
seeking extension of time and directions from the Commission for 300
MW Solar Project at Lakhtar, District Surendranagar, Gujarat.**

And

IA No. 06 of 2021 in Petition No. 1854 of 2020.

In the matter of:

**Interim Application seeking urgent hearing for the grant of Interim Relief
of restraining the Respondent from taking any coercive steps against the
Petitioner.**

Petitioner : Avaada Sunrise Energy Pvt. Limited

Represented by : Learned Senior Advocate Shri Gopal Jain with
Advocates Shri Ankur Sood, Ms. Romila Mandal,
Shri Prithu Parimal alongwith Shri Amit Ojha, Shri
Ashish Bhardwaj and Ms. Snigdha Bhandari

V/s.

Respondent : Gujarat Urja Vikas Nigam Limited

Represented By : Learned Advocates Ms. Anushree Bardhan and Ms.
Srishti Khindaria

And

Petition No. 1960 of 2021.

In the matter of:

**Petition under Section 86 (1) (b), (e) and (f) of the Electricity Act, 2003
and Regulation 26 of GERC (Conduct of Business) Regulations, 2004
seeking extension of time.**

And

IA No. 07 of 2021 in Petition No. 1960 of 2021.

In the matter of:

Interim Application seeking urgent hearing for the grant of Interim Relief.

Petitioner : Avaada Sunrise Energy Pvt. Limited

Represented by : Learned Senior Advocate Shri Gopal Jain with Advocates Shri Ankur Sood, Ms. Romila Mandal, Shri Prithu Parimal alongwith Shri Amit Ojha, Shri Ashish Bhardwaj and Ms. Snigdha Bhandari

V/s.

Respondent : Gujarat Urja Vikas Nigam Limited

Represented By : Learned Advocates Ms. Anushree Bardhan and Ms. Srishti Khindaria

CORAM:

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

Date: 22/06/2021.

DAILY ORDER

1. The above matters were listed for hearing on 15.06.2021 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.
2. Heard Learned Senior Advocate Shri Gopal Jain on behalf of the Petitioner Avaada Sunrise Energy Pvt. Limited (ASEPL) and Learned Advocate Ms. Anushree Bardhan appearing on behalf of the Respondent Gujarat Urja Vikas Nigam Limited (GUVNL).
3. Ld. Senior Advocate Shri Gopal Jain, on behalf of the Petitioner, submitted that the Petitioner has filed two Petitions before the Commission being Petition No. 1854 of 2020 and 1960 of 2021. He submitted that the Commission may permit him for taking up Petition No. 1960 of 2021 first since the said Petition broadly outlays the canvass of the matter and sets out the law and thereafter, if any point remains, he can address the Commission with regard to Petition No. 1854 of 2020 wherein the issue of Financial Closure is broadly involved. He submitted that the Petitioner is fully committed to the Project and even the balance capacity is likely to be commissioned shortly.

4. Ld. Advocate Ms. Anushree Bardhan appearing on behalf of Respondent submitted that the Respondent has received copy of rejoinder reply filed by the Petitioner in Petition No. 1960 of 2021 only yesterday i.e., on 14.06.2021 and requested to adjourn the matter since some time is required to study the same as the Petitioner has given reply to the Force Majeure issues raised by GUVNL. Citing the issue of unprecedeted rainfall, she submitted that as per the provisions of the PPA, the Petitioner is required to substantiate with data of past 100 years for claiming 'Force Majeure'. Similarly, other grounds also need to be proved with evidence and justification and in absence of same the issue is not permissible to be decided and requires consideration of the documents/evidence etc. Hence, no direction can be given by this Commission. She submitted that as such the issues involved in these matters need to be examined on merits and since, the Respondent needs to examine the rejoinder reply and thereafter, respond on the same, if required, therefore the Commission may grant time to GUVNL to file further submissions in the matter, if required.
5. Since the Petition No. 1960 of 2021 covers the issues between the parties, the Petition No. 1854 of 2020 is kept alongwith Petition No. 1960 of 2020. Both the I.A. No. 06/2020 in Petition No. 1854/2020 and I.A. No. 07 of Petition No.1960/2021 for urgent hearing and interim reliefs stand disposed of.
6. We have considered the submissions made by the parties. We note that the issues involved in Petition No. 1854 of 2020 and 1960 of 2021 are interwoven and co-related with each other. Hence, we decide to take up and hear both these Petitions simultaneously. During hearing it is also inquired as to whether there is any scope for amicable settlement between the parties and if so found, the parties can very well explore it considering commercial wisdom & legal provisions.

- 6.1. We note that the Respondent sought adjournment on the ground that the rejoinder reply in Petition No. 1960 of 2021 was received from the Petitioner one day before and sought time to file further submissions, if required and the Petitioner having no objection to same, we decide to adjourn the matter. We also grant liberty to the Respondent GUVNL to file its submissions, if any, within 10 days from the date of this Order, with copy to the Petitioner.
- 6.2. We further note that the Petitioner has through various emails filed and submitted following in Petition No.'s 1854 of 2020 and 1960 of 2021 but has not filed / submitted the hard copy of same:
 - (i) Additional/relevant Documents filed through email dated 19.05.2020;
 - (ii) Rejoinder and reply filed through email dated 02.06.2020;

- (iii) Additional submissions and documents in terms of Daily Order dated 09.10.2020 filed through email dated 31.12.2020.
- (iv) Rejoinder reply in Petition No. 1960 of 2021 through email dated 12.06.2021

6.3. As such it is necessary that any submissions/reply/additional documents etc. may be filed through email and thereafter, the hard copy of Original reply/submissions (1 Original + 4 photocopies) be filed before the Commission after duly obtaining the page numbering from the staff of the Commission as required under Regulations 26, 30 and 49 of the GERC (Conduct of Business) Regulations, 2004. As per the said Regulations, the parties are required to file the Petitions and Replies before the Commission which shall be typewritten, cyclostyled or printed neatly and legibly on one side of ledger paper and every page shall be consecutively numbered and accompanied by such documents, supporting data and statements and that such Petitions and Replies must be filed in soft copy also. Moreover, it also states that all Petitions and Replies shall be filed with five copies and also served upon all the other parties to the proceedings, simultaneously with filing of the same before the Commission.

6.4. We note that, although the Petitioner has been providing the scanned copy of its submissions in present matters but hard copies of additional submissions/reply/documents/rejoinder reply etc. are yet to be filed in terms of above. Hence, we direct the Petitioner to file the hard copy of above duly page numbered as per record of the Commission in these matters, within 10 days from the date of this Order.

6.5. Ld. Counsels for the Petitioner and the Respondent admitted that both the Petitions i.e. 1854 of 2020 & 1960 of 2021 and I.A.'s filed in it by the Petitioner i.e. I.A. No. 06 of 2021 in Petition No. 1854 of 2020 and I.A. No. 07 of 2021 in Petition No. 1960 of 2021 were heard by the Commission and the prayers in I.A. No. 06 of 2021 in Petition No. 1854 of 2020 and I.A. No. 07 of 2021 in Petition No. 1960 of 2021 for early hearing of the main Petitions are satisfied and hence, the same be disposed of. We agree with the same. Accordingly, both the aforesaid I.A.'s stand disposed of.

7. The next date of hearing will be on 08.07.2021 at 11:30 A.M.

8. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 22/06/2021.