

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 1977 of 2021.**

**In the Matter of:**

**Petition under Section 86 (1) (e) & (f) of Electricity Act, 2003 seeking directions to Respondents for issuance of pending no objection certificate and necessary permissions to Petitioner for installing and commissioning of 3 MW (2987.04 KW DC capacity and 2200 KW AC capacity) onsite captive solar power plant at the premises of Petitioner No. 2 and declare that the same does not fall within the scope of Gujarat Electricity Regulatory Commission (Net Metering Rooftop Solar PV Grid Interactive Systems) Regulations, 2016 (as amended from time to time).**

Petitioner No. 1 : Amplus Coastal Power Pvt. Limited

Petitioner No. 2 : M/s Ultratech Cement Limited

Represented by : Ld. Adv. Mr. Sakya Singha Chaudhari and Adv. Ms. Nameeta Singh

V/s.

Respondent No. 1 : Paschim Gujarat Vij Company Limited

Represented by : Ld. Adv. Ms. Harsha Manav and Mr. Y. S. Ghedia

Respondent No. 2 : Gujarat Energy Transmission Corporation Limited

Represented by : Nobody was present.

Respondent No. 3 : Gujarat Energy Development Agency (GEDA)

Represented by : Mr. H. S. Silajiya

**CORAM:**

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

**Date: 07/12/2021.**

## **DAILY ORDER**

1. The matter was kept for hearing on 23.11.2021.
2. Heard Ld. Adv. Mr. Sakya Singha Chaudhari appearing on behalf of the Petitioners on the factual aspects of the present matter.
- 2.1. It is submitted that the Petitioner No. 1 is a generating company which is in process of setting-up 3 MW Solar project within the cement manufacturing premises of the Petitioner No. 2 and entire solar energy generation from the said project is to be consumed by the Petitioner No. 2 for meeting its captive requirements and in order to meet its RPO requirements in terms of GERC RPO Regulations.
- 2.2. It is submitted that the Petitioner No. 2 is engaged in the business of manufacturing and selling various grades and types of cement and related products. Moreover, in order to meet its power requirements, the Petitioner No. 2 is already having thermal generating plants and two diesel generators which are set-up for meeting its captive requirement under Rule 3 of the Electricity Rules, 2005.
- 2.3. The Petitioner No. 1 is a Special Purpose Vehicle (SPV) for setting up the ground mounted onsite Captive Solar Plant within the premises of Petitioner No. 2 and for this purpose, equity shareholding in the above SPV i.e., Petitioner No. 1 by the Petitioner No. 2 is to the extent 35% and balance 65% equity shareholding in the Petitioner No. 1 is owned by M/s Amplus Energy Solutions Pte. Limited. Accordingly, the Petitioner No. 2 will be contributing equity of 35% in SPV so as to meet the criteria regarding minimum 26% equity contribution for captive status as per Rule 3 of the Electricity Rules, 2005 issued by the Ministry of Power, Government of India.
- 2.4. It is submitted that in compliance to directives of the Commission in its Daily Order 07.10.2021 to place on record the documents with respect to nature of CGP, both the Petitioners have filed separate affidavits dated 22.10.2021 alongwith copy of Shareholder agreement dated 27.11.2019 entered into between the Petitioners and Shareholding structure of the Petitioner No. 1 company as on 19.10.2021 as duly

certified by the Chartered Accountant of subscription by the parties, copy of Registration form of Solar Power/rooftop project submitted before GEDA.

- 2.5. Referring to Recital “D of ‘Share Subscription and Shareholders Agreement’ executed amongst the Petitioners herein and Amplus Energy Solutions Pte Ltd., it is submitted that it is clearly mentioned that Petitioner No. 2 shall own 35% of the Equity Share Capital and Recital ‘E’ states that the quantity of power/electricity generated from the Captive Power Plant shall be used for captive consumption by the Petitioner No. 2. It is further submitted that Clause 1.1.64 of above Agreement defines the Solar Power Plant/s for supplying Electricity to UltraTech on a captive consumption basis. Also, in this regard, Ld. counsel for the Petitioners also referred Clause 3.2.1 under ‘Subscription of Company’s Securities’ and Clauses 7.2 and 7.3 under ‘Share Capital and Future Capitalisation and submitted that the Petitioners are relying upon the aforesaid ‘Share Subscription and Shareholders Agreement’ regarding the status of Captive Generating Plant.
- 2.6. Referring to ‘Gujarat Cement Project’ in Schedule 1 pertaining to ‘Details of the UTCL Captive Power Plant(s)’, it is submitted that although the capacity mentioned therein is “In AC: 1.76 MW AC and in DC: 2.32 MW DC”, but now the proposed capacity of said project is 3 MW DC.
- 2.7. Referring to Chartered Accountant certificate dated 19.10.2021, it is submitted that ‘Shareholding Pattern’ of the Petitioner No. 1 as on 19.10.2021 is certified showing equity shares and amount invested by the Petitioners.
- 2.8. It is argued that above Solar Project is intended for RPO compliance coupled with captive consumption by the Petitioner No. 2 but issues have arisen for same regarding installation of Solar Project at the premises of the Petitioner Ultratech Cement Limited. In this regard, referring to ‘Registration form of Solar Power/Rooftop Project’ submitted to GEDA, it is submitted that ‘Name of Applicant’ is mentioned as Petitioner No. 2 with its address as Kovaya Cement works. Also, in the capacity of the project (in MW scale project) it is stated as 3 MW (DC) whereas at (D) titled “Technical and Financial details of the Project” under “Type of consumer’ it is mentioned is “Industrial”, ‘Sanctioned load’ as “8000 KVA”, ‘End use of electricity’ as “Captive consumption/RPO compliance as per Electricity Act, 2003

read with Electricity Rules 2005”, ‘Name of Third Party, if sale to Third Party’ as “Not Applicable”, ‘Energy Settlement Option’ as “Not applicable”, ‘Project to be Registered under REC Mechanism’ as “No” etc.

- 2.9. It is argued that although the above application clearly mentioned regarding captive consumption with end use by the Petitioner No. 2 and has nothing to do with any injection, energy settlement, third party sale etc. but inadvertently, GEDA in its letter dated 18.07.2019 addressed to Respondent No. 1, informed regarding registration of Solar Project under Gujarat Solar Power Policy, 2015 and referring to said letter it is submitted that at point no. 5 it is mentioned that PGVCL may consider providing grid connectivity as per the provision of policy and also entering in to wheeling of power agreement with applicant with energy settlement provisions of the policy as well as specification of ABT compliant meter etc.
- 2.10. It is submitted that earlier, the Petitioner No. 2 vide its letter dated 04.06.2019 had also informed the Respondent No. 1 PGVCL about the proposed captive plant to be set up by the Petitioners as per Electricity Act and Rules framed thereunder. It was also informed that the said project is ground mounted onsite behind the meter solar project within the premises of the Petitioner No. 2 connected internally for consumption of power.
- 2.11. It is also submitted that in terms of GERC Supply Code, the Petitioners submitted all the required details to PGVCL. It is also clarified that the captive solar project to be installed within the premises of the Petitioner No. 2 is to fulfill the RPO obligation and electricity generated from such project is for self-consumption and there will be no injection into the grid. It is stated that the Petitioners will be using two level protection by installing ‘Net Voltage Relay’ and ‘Reverse Power Relay’ at its premises for ensuring that no power is injected into grid which is also recognized by Chief Electrical Inspector.
- 2.12. It is further stated that the Petitioner No. 2 also vide its letter dated 04.06.2019 requested GEDA to register and permit setting up of the Solar Project under Solar Policy and also clarified about captive plant and that entire 100% electricity generated from the plant is to be self-consumed and no power will be injected into the grid. It is submitted that Respondent GEDA has informed vide letter dated

18.07.2019 to the Petitioner about the registration the Solar Projects with a copy to the Respondent PGVCL. The aforesaid letter also provided the grid connectivity and CEIG approval despite being informed by the Petitioners that the aforesaid project is being set up only for self-consumption and no electricity generated from the solar project to be injected into the grid.

- 2.13. In response to GEDA's letter, the Respondent PGVCL vide letter dated 09.08.2019 informed that the Solar Project installed within the premises of Petitioner No. 2 is under "Net Metering" arrangement of 3 MW capacity, whereas; the maximum capacity allowed under GERC Net Metering Regulations is limited to 1 MW only and accordingly, the PGVCL has denied the Petitioners from installing the Solar Project.
- 2.14. Referring to letter dated 20.08.2020 of the Respondent No. 2, it is submitted that GEDA vide its letter dated 26.08.2019 informed the Respondent PGVCL to grant connectivity to the solar project of the Petitioners through wheeling option, which also does not arise under the present arrangement as no electricity will be injected into the grid and there is no scope for using the distribution or transmissions system.
- 2.15. It is submitted that being aggrieved by the unlawful denial by the Respondents to allow setting up the onsite Solar Project within the premises of the Petitioner, the Petitioners by way of the present petition approached the Commission.
- 2.16. Referring Regulation 3.9 of GERC Supply Code, 2015 pertaining to Parallel Operation with Distribution Licensee's System, it is submitted that connection and connectivity is different and distinct as per the Supply Code and the PGVCL has proceeded against the said Regulations which provides for requisite intimation and approval for installation of any generating sets within its premises. The Petitioners approached the Respondent for co-ordination before the installing the solar generating set in its premises and already received the approval from the Chief Electrical Inspector.
- 2.17. Referring to various provisions of the GERC Net Metering Regulations including Regulations 6.2, 8.3, 8.7, 8.8 etc., it is argued that the objective of defining 'Eligible Consumers' under the Net Metering Regulations is to state the eligibility criteria for



availing Net Metering facility with the distribution licensee and not the eligibility criteria for setting up a Captive Solar Plant within the premises of a consumer. It is also submitted that Net Metering Regulations requires a rooftop solar PV system to be connected with the load side of meter/distribution licensees' cutout/switchgear fixed in the premises of the consumers whereas in the present case, the Petitioner's project is neither connected with the load side of meter or distribution licensee cut off or switchgear fixed in the premises of the Petitioner.

- 2.18. Thereafter, Ld. Counsel for the Petitioners requested the Commission to give another date for continuing with the arguments in the present matter.
3. Ld. Adv. Ms. Harsha Manav, appearing for the Respondent No. 1 PGVCL submitted that there is no objection to above request of Ld. counsel for the Petitioners but requested that next hearing as may be decided as per convenience of the Commission be kept as virtual hearing which is also agreed by the counsel of the Petitioners.
4. At joint request of the parties, the next date of hearing is on 09.12.2021 at 11:30 A.M. through V.C. on Microsoft teams. Staff of the Commission is directed to provide necessary link to parties in the matter.

**Sd/-**  
**[S. R. Pandey]**  
**Member**

**Sd/-**  
**[Mehul M. Gandhi]**  
**Member**

Place: Gandhinagar.  
Date: 07/12/2021.