

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2055 of 2022.

In the matter of:

Petition under Section 86 (1) (e), (f) and (k) of the Electricity Act, 2003 read with Articles 8 & 11 of PPA dated 08.07.2020 for supply of 190 MW capacity of Solar Power from its Solar PV Power Plant located in the State of Gujarat seeking extension of the Scheduled Commercial Operation Date as prescribed under the PPA on various uncontrollable & justifiable grounds including that of Force Majeure and consequently protecting the Petitioner against any financial /commercial prejudice that may ensue under the said PPA.

And

IA No. 07 of 2022 in Petition No. 2055 of 2022.

In the matter of:

Application for seeking Interim reliefs.

Petitioner/Applicant : M/s Juniper Green Three Pvt. Limited
Represented by : Ld. Advocates Mr. Utkarsh Singh & Mr. Vikash
Aggarwal

V/s.

Respondent : Gujarat Urja Vikas Nigam Limited
Represented by : Ld. Adv. Ms. Harini S. and Mr. Parthik Joshi

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 06/08/2022

ORDER

1. The matter was heard on 03.08.2022.
2. The present Petition has been filed by the Petitioner along with IA No. 07 of 2022 in main Petition. The prayers sought in the main matter are as under:
 - (a) To allow the present petition;
 - (b) To issue appropriate order(s)/direction(s) to hold and declare that the delay, if any, in achieving the Scheduled Commercial Operation Date of the Project as prescribed under the Power Purchase Agreement is for reasons beyond the control of the Petitioner and for the reasons not attributable to the Petitioner, including on account of Force Majeure under Article 8 of the Power Purchase Agreement dated 08.07.2020 executed between the Petitioner and Respondent – Gujarat Urja Vikas Nigam Limited;
 - (c) To issue appropriate order(s)/direction(s) holding that the Petitioner is entitled to an extension of 48 days in achieving the Scheduled Commercial Operation Date on account of first surge of Covid-19 in 2020, as a Force Majeure Event under Article 8 of the Power Purchase Agreement and any consequent delay thereof;
 - (d) To issue appropriate order(s)/direction(s) holding that the Petitioner is entitled to extension of 34 days in achieving the Scheduled Commercial Operation Date on account of third surge of Covid-19, as a Force Majeure Event under Article 8 of the Power Purchase Agreement and any consequent delay thereof;
 - (e) To issue appropriate order(s)/direction(s) holding that the Petitioner is entitled to extension of 50 days in achieving the Scheduled Commercial Operation Date on account of the disruption in supply of solar modules for the Project, due to force majeure event beyond reasonable control of the Petitioner under Article 8 of the Power Purchase Agreement and any consequent delay thereof;
 - (f) To issue appropriate order(s)/direction(s) to Respondent DISCOM to execute

necessary supplementary agreement to effectuate extension of the Scheduled Commercial Operation Date of the Project; and

- (g) To Pass such order (s), further relief (s) in the facts and circumstances of the case as the Commission may deem just and equitable in the favour of Petitioner.
3. The Petitioner/Applicant has also filed IA No. 07 of 2022 under Section 86 readwith Section 94(2) of the Electricity Act, 2003 alongwith Regulation 61 readwith Regulation 80-82 of the GERC (Conduct of Business) Regulations, 2004 seeking appropriate direction(s) to the Respondent to not take any coercive / precipitative actions / to keep in abeyance any action that may have been initiated against the Applicant/Petitioner by giving effect to Article 3.3 and Article 4.1.9 of the PPA dated 08.07.2020 including but not limited to invocation and/or encashment of Performance Bank Guarantee in the interim till the final adjudication of the main matter.
4. During the hearing, Ld. Adv. Mr. Utkarsh Singh, appearing on behalf of the Petitioner, submitted that after filing of above matters and during pendency of proceedings thereunder, the Petitioner has filed an application dated 14.07.2022 along with affidavit for seeking permission for withdrawing the Petition & allied IAs with a copy to the Respondent GUVNL and accordingly, the Commission may permit the Petitioner to withdraw the present Petition & allied IAs.
- 4.1. It is submitted that the aforesaid Petition was filed for seeking extension in achieving SCOD due to Force Majeure eventualities encountered by the Petitioner while developing the 190 MW project. However, since the Petitioner/Applicant has achieved COD of the entire capacity of the project within the extended period allowed by the Respondent and the Petitioner is supplying power to the Respondent GUVNL in terms of the provisions of the PPA. Hence, the Petitioner/Applicant by way of above application is seeking permission to withdraw the main Petition and other applications as filed before this Commission, which may be allowed.
5. Ld. Adv. Ms. Harini S., appearing on behalf of the Respondent GUVNL, submitted that the Respondent GUVNL has no objection to withdrawal of Petition & allied IAs filed by the Petitioner.

6. We note that the Petitioner has vide application dated 14.07.2022 prayed to permit withdrawal of the main Petition No. 2055 of 2022 and IA No. 07 of 2022 in Petition No. 2055 of 2022 as the COD of the project had been attained on 24.03.2022 and the Petitioner is supplying power to the Respondent GUVNL in terms of the provisions of the PPA. During the hearing on 03.08.2022, Ld. counsel on behalf of the Petitioner also requested that the Applicant/Petitioner may be allowed to withdraw the aforesaid matters. The Respondent has no objection to it. Accordingly, with consideration of same, we decide to allow withdrawal of the main Petition No. 2055 of 2022 and IA No. 07 of 2022 in Petition No. 2055 of 2022.
7. In view of the above, this Petition alongwith its IA No. 07 of 2022 stand disposed of as withdrawn by the Petitioner. No further Order.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.

Date: 06/08/2022.