

BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION

GANDHINAGAR

Petition No. 2377 of 2024.

In the matter of:

Petition under Section 61 (h), 62, 86 (1) (c) and (e) and 181 of the Electricity Act, 2003 and other applicable provisions of the Electricity Act, 2003 for amendment of the Order No. 1 of 2024 for Tariff Framework for Procurement of Power by Distribution Licensees and others from Wind-Solar Hybrid Power Projects including Storage, if any, for the State of Gujarat and Procedure for Grant of Connectivity to Projects based on Renewable Sources to Intra-State Transmission System dated 07.01.2023.

Petitioner : Gujarat Energy Transmission Corp. Ltd.

Represented by : Ld. Adv. Ranjitha Ramchandran alongwith
Mr. A.J. Chavda and Mr. S. K. Nair

Vs.

Respondent No. 1 : Madhya Gujarat Vij Company Limited

Represented by : Mr. V. J. Trivedi

Respondent No. 2 : Uttar Gujarat Vij Company Limited

Represented by : Mr. K. B. Chaudhari

Respondent No. 3 : Paschim Gujarat Vij Company Limited

Represented by : Ms. S. N. Parmar and Mr. J. R. Bavalia

Respondent No. 4 : Dakshin Gujarat Vij Company Limited

Represented by : Mr. P. M. Patel

Respondent No. 5 : Torrent Power Limited

Represented by : Nobody remain present.

Respondent No. 6 : MPSEZ Utilities Limited

Represented by : Nobody remain present

Respondent No. 7	:	Deendayal Port Trust
Represented by	:	Nobody remain present
Respondent No. 8	:	Aspen Park Vadodara Pvt. Limited
Represented by	:	Nobody remain present
Respondent No. 9	:	Jubilant Infrastructure Limited
Represented by	:	Nobody remain present
Respondent No. 10	:	GIFT Power Company Limited
Represented by	:	Nobody remain present.
Objector No. 1	:	Cleanmax Enviro Energy solutions Pvt. Ltd.
Represented by	:	Mr. Ashu Gupta
Objector No. 2	:	Aditya Birla Renewables Limited
Represented by	:	Nobody was present
Objector No. 3	:	KPI Green Energy Limited
Represented by	:	Nobody was present
Objector No. 4	:	FORCE
Represented by	:	Nobody was present
Objector No. 5	:	CGE hybrid Energy Pvt. Limited
Represented by	:	Adv. Mr. Parinay Deep Shah and Mr. Heramb Kulkarni
Objector No. 6	:	Shree Digvijay Cement Co. Limited
Represented by	:	Nobody was present
Objector No. 7	:	AMP Energy C&I Two Pvt. Limited

Represented by	:	Adv. Mr. Vishro Mukherjee, Adv. Mr. Girik and Adv. Mr. Sarvasw
Objector No. 8	:	WIPPA
Represented by	:	Nobody was present
Objector No. 9	:	TSSDG India Pvt. Limited
Represented by	:	Nobody was present
Objector No. 10	:	ReNew Private Limited
Represented by	:	Nobody was present
Objector No. 11	:	Indian Wind Power Association
Represented by	:	Nobody was present
Objector No. 12	:	GEDA
Represented by	:	Mr. Yatin Patel and Mr. Pratik Patel
Objector No. 13	:	Opera Energy Pvt. Limited
Represented by	:	Nobody was present
Objector No. 14	:	Drashta Power Consultant
Represented by	:	Nobody was present
Objector No. 15	:	NSEFI
Represented by	:	Nobody was present
Objector No. 16	:	Juniper green Energy Pvt. Limited
Represented by	:	Nobody was present
Objector No. 17	:	DISPA

Represented by : Ms. Vidisha Dubey Srivastava

Objector No. 18 : S G Solar Association

Represented by : Nobody was present

Objector No. 19 : Reagan fashion Pvt. Limited

Represented by : Nobody was present

Objector No. 20 : Ba Prerna

Represented by : Nobody was present

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

Date: 21 / 09 / 2024

ORDER

1. The present Petition has been filed by the Petitioner for initiate proceedings for appropriate amendments to the Order No. 1 of 2024 for Tariff Framework for Procurement of Power by Distribution Licensees and Others from Wind-Solar Hybrid Power Projects including Storage, if any, for the State of Gujarat and Procedure for Grant of Connectivity to Projects based on Renewable Sources to Intra-State Transmission System dated 07.01.2023.
2. The facts mentioned in the brief in the Petition are as under:
 - 2.1. It is submitted that the Petitioner has filed the present Petition in regard to the Order No. 1 of 2024 related to Wind Solar Hybrid Projects and Procedure for Grant of Connectivity to Projects based on Renewable Sources to Intra-State Transmission System with regard to the consideration of need for permitting the transfer of connectivity in cases where the Renewable Projects are being

promoted and allowed to be established under a Scheme involving RE Project Developer acting for group of RE Projects entities till the commissioning and Commercial Operation /RE Park Developers.

2.2. It is respectfully submitted that under Section 61, 62, 86 and 181 of the Electricity Act 2003 and other Applicable provisions of the Electricity Act, 2003, the Commission has jurisdiction to entertain the present petition for amendment of the Tariff Order / Procedure/ Regulations of the Commission.

2.3. It is submitted that the Procedure issued for connectivity for renewable energy projects approved on 07.01.2023 indicates that the connectivity cannot transferred:

4.5 Further, connectivity once granted, shall not be transferrable to other entity. Also, purpose of connectivity once granted cannot be changed or modified.

2.4. It is submitted that the Order No. 1 of 2024 under the head of “Procedure for integration of the wind solar hybrid project and battery storage to the grid” inter alia provides as under:

“3.10

”

c. It is also necessary to ensure that the physical connectivity of Solar – Wind and Storage, if any, Hybrid Power Project with grid is granted to the same person/generating company in whose name the connectivity is approved / sanctioned and also the transmission and/or wheeling agreement is signed with the same person/generating company as a party to the agreement in whose name the connectivity is granted. The commissioning of the project shall be allowed by GEDA, DISCOMs and/or GETCO representative by verifying that such RE generators has complied with the provisions of CEA’s Connectivity Standard Regulations and obtained ALMM certificate, if applicable and it shall be recorded in Commissioning Certificate during the inspection and commissioning activities.”

2.5. From the above, it may be construed that the intention is to not allow the transfer of connectivity and further the person who had applied and obtained for connectivity would be the person who has to sign the transmission and/or

wheeling agreement, including where the RE projects are being established through recognized Schemes with involvement/ facilitation by RE Project Developer/ RE Park Developers.

- 2.6. It is submitted that if the above restriction is construed to be applicable to all including the RE Project Developers developing the Projects for number of RE projects entities and/ or RE Park Developer and will seriously affect Schemes of the development and promotion of RE sources by such involvement in the Developer Model. There are project developers who had been establishing the RE projects in aggregate and thereafter transfer individual RE Projects to other entities. Such projects are all connected to the common pooling station and the generation is apportioned to the individual generators by GEDA. This has been done in the past. Further there are park developers who establish common infrastructure facilities including the dedicated line to the GETCO sub-station.
- 2.7. It is submitted that many developers and consumers have sent representations to the Government of Gujarat wherein they have represented the difficulty they are facing in the setting up of Renewable Energy power projects in Gujarat and GETCO has been forwarded the representations. It is stated that one of the issues raised is the conflicting provisions for permissions and agreements in the Government of Gujarat Policy and the Regulations – the representations had referred to provision in the Gujarat Renewable Energy Policy 2023 – definition of Project Developer/RE Project Developer and Clause 3.10(c) of the Order No. 1 of 2024. The Policy recognizes the transfer of the Project in the definition of the RE Project Developer:

“Project Developer / RE Project Developer” shall mean an entity that makes investment for setting up solar or wind or wind-solar hybrid power project for the purpose of generation of electricity. Provided further that in case of wind Power Projects and also Wind-Solar Hybrid Power Projects wherein the development of project is being undertaken by an entity with requisite infrastructure in terms of land, internal roads, pooling sub-station, dedicated transmission line upto grid substation etc. and thereafter the project is transferred by such entity to another entity(ies), the RE project developer in such cases for the period upto

transfer of project, shall mean the transferor entity and after the transfer of project shall mean the transferee entity who owns and operates the project for end use of energy generated from such project or part(s) thereof. Commissioning of projects connected with the State Grid will be undertaken on execution of Wheeling Agreement / Power Purchase Agreement with DISCOM or consumer(s)."

2.8. The Petitioner has further submitted that the aforesaid representations, inter alia, stated as under:

- If provision for developer and transferee is removed, then every consumer / project has to apply for individual connectivity which may lead to either under-utilization of transmission capacity and / or more transmission lines have to be erected.
- Developer who sought connectivity shall have to prove financial capability, acquire land and analysis of sites having high wind potential which leads to more financial implications on small consumers/users for setting up RE projects.
- Only large industries with high power consumption will be benefited and comparatively small industries will remain deprived creating discrimination between them.

2.9. In view of the above representations, Government of Gujarat after detailed deliberations and discussions with GEDA, GUVNL, GETCO and stakeholders has directed that appropriate steps be taken to seek appropriate amendments in cases of Developers developing RE Projects in aggregate and Park Developers.

2.10. It is submitted that GETCO has also received multiple requests/applications in regard to open access from transferee entities. It thus appears that there are number of ongoing projects under the Developer Approach wherein the Developer obtains the connectivity and thereafter transfers the individual projects to other entities. As per the information of GEDA e-mail dated 20.04.2024, as on date they have already accorded development permission to different hybrid projects of total 275 MW capacity which are ready for

commissioning.

2.11. It is submitted that the Developer Model is prominent particularly for development of wind projects which is part of the hybrid project, considering the complexity of project technology. Further, smaller entities including MSME sector usually do not have the expertise to execute such projects nor it is economically viable and technically feasible to implement small size projects to fulfil their renewable energy requirement and therefore such entities have in the past relied on the developer model. However, in view of the restrictions in the present mechanism for transfer, these projects may get affected.

2.12. It is submitted that further in view of the restriction, development of RE Parks may also be affected. Usually, the connectivity is obtained by the RE Park Developer and thereafter the open access is taken by the Generator or the Consumer. The Connectivity Procedure dated 7.01.2023 while acknowledging the applicability to RE Park Developers does not specifically provide for how such Park Developers are to be treated when the Park Developer is not to be a generator itself:

"2. Applicability

2.1 This Procedure shall be applicable to the following:

..

ii) This procedure shall be applicable to the concerned agencies such as Gujarat STU, Transmission Licensee(s), Distribution licensees, State Load Dispatch Centre (SLDC), RE Implementing Agencies, RE Park Developers etc."

2.13. It is submitted that the Park Developer establishes the infrastructure and obtains connectivity for the entire park in its name and the open access is sought by the project(s) established therein.

2.14. It is submitted that that the Commission may consider the aspect of permitting the transfer of project capacity in case of RE Project Developers (developing RE Projects in aggregate) and RE Park Developers. Accordingly, it is requested that in the Order No. 1 of 2024, Proviso may be added under Clause 3.10(c) as follows:

“Provided that where RE Park Developer (as declared in the application for connectivity) developing the infrastructure facilities for the RE Projects to be established in the RE Park obtains connectivity for evacuation of power from RE projects located in the RE Park, such arrangement between the RE Park Developer and the RE Projects shall not be in breach of the above and the connectivity so taken by the RE Park Developer shall be deemed to be on behalf of the RE Projects also.

Provided further that where under any scheme duly declared in the application for connectivity, the RE Developer develops the RE Projects in aggregate, with Connectivity to the Grid taken by the RE Developer with intent to allocate, transfer and assign individual RE Projects to identified entities, such arrangement between the RE Developer and the RE Projects shall not be in breach of the above and the connectivity so taken by the RE Developer shall also be deemed to be on behalf of the RE Projects also for all intents and purposes”

- 2.15. It is submitted that in Procedure for “Grant of connectivity to projects based on renewable energy sources to intra-state transmission system”, appropriate amendment may be allowed as under:

i. Proviso may be added after 4.5

“Provided that where RE Park Developer (as declared in the application for connectivity) developing the infrastructure facilities for the RE Projects to be established in the RE Park obtains connectivity for evacuation of power from RE projects located in the RE Park, such arrangement between the RE Park Developer and the RE Projects shall not be in breach of the above and the connectivity so taken by the RE Park Developer shall be deemed to be on behalf of the RE Projects also for all intents and purposes. The RE Park Developer shall be required to declare the intent at the time of filing of the application for Connectivity.

Provided further that where under any scheme duly declared in the application for connectivity, the RE Developer develops the RE Projects in aggregate, with Connectivity to the Grid taken by the RE Developer with intent to allocate, transfer and assign individual RE Projects to identified entities, such arrangement between the RE Developer and the RE Projects shall not be in breach of the above and the connectivity so taken by the RE Developer shall also be deemed to be on behalf of the RE Projects also ”

- 2.16. It is submitted that the entities shall be required to declare at the time of filing of application itself if they are applying as RE Park Developer and Aggregate RE Developer and only such entities shall be allowed for transfer. The

Application forms for the Connectivity may be suitably modified.

- 2.17. It is further submitted that there is a reference for connectivity and agreement on own name under Regulation 13 (XI) of GERC Green Energy Open Access Regulation, 2024 which provides that:

*“New Green Energy (RE) generating plant(s) or generating Unit(s) or generating company who has obtained connectivity **on its name**, applied for seeking Long-Term Green Energy Open Access and entered into agreement for wheeling and/or transmission **on its name**, shall commission such plant(s) or unit(s) within twenty-four months from the date of Green Energy Open Access Application or the schedule date of commencement of open access/SCOD of the plant as specified in the respective PPA/transmission agreement/wheeling agreement, whichever is earlier, as case may be. Failing which, the Green Energy Open Access granted shall be deemed to have been cancelled, to avoid unnecessary blocking of the corridor.*

Provided that in case of project developer is ready for commissioning of the project with supporting documentary evidence but such projects are unable to commission due to non-availability of transmission/distribution network on account of failure of licensee, such generator or generating company has liberty to approach the Commission, preferably, prior to three (3) months from the date of the completion of timelines as specified above”

- 2.18. In this regard, it is submitted that if the provisions as referred to hereinabove is made in the Order No. 1 of 2024 and the Detailed Procedure, the above provision in the Green Open Access Regulations would equally apply to such transferee entities.

3. The matter was heard by the Commission and passed daily order dated 09.08.2024 wherein the Commission directed the Petitioner to upload Petition on its website and also publish public notice inviting comments and suggestions from the stakeholders within 21 days from the date of issue of public notice in two daily Gujarati and one English newspapers. The Commission has also directed to the staff of the Commission to upload Petition on website of the Commission and invite comments and suggestions from the stakeholders.

4. It is submitted that as per the direction of the Commission, the Petitioner has

published public notice in two daily Gujarati Newspaper viz. Sandesh and Gujarat Samachar on 14.08.2024 and in one English Newspaper, i.e. Indian Express on 14.08.2024. The Petitioner has also uploaded the Petition with relevant documents on its website. Further, the Petitioner filed compliance affidavit on 16.08.2024 stating that as directed by the Commission vide daily order dated 08.06.2024, the Petitioner has uploaded the present Petition with all relevant documents on its website and invited comments/suggestions from the stakeholders on the Petition on affidavit within 21 days from the date of issue of public notice.

5. The Commission has also uploaded the said Petition on its website and invited comments and suggestions from the stakeholders.
6. In response to the above public notice, the objections are received by the Commission and Petitioner from various stakeholders. The gist of objections /suggestions made by various parties are as under:
 - i. Some of the objectors have submitted that the stipulation provided in tariff Order No. 01 of 2024 under Clause 3.10 (c) mandates that the entity securing connectivity must also sign transmission or wheeling agreement on same name, which restricts the transfer of connectivity rights and undermines the developer models which relies on flexibility to transfer of project ownership and connectivity post development of the RE project.
 - ii. The objectors have proposed following suggestions:
 - a. Recognize developer model as legitimate and effective mechanism for the development of RE project.
 - b. Include explicit provisions for seamless transfer of grid connectivity and associated agreements from RE project developers or RE park developers to individual projects/entities.
 - iii. Restriction on transfer of grid connectivity may lead to scenario wherein each individual entity is required to applied separately for connectivity leading to

underutilization of transmission infrastructure and bringing inefficiency such as redundancy transmission lines and increased financial burden on project developers. To overcome above aspect the objectors/stakeholders have made following suggestions:

- a. Allow for transfer of connectivity from developer to individual entity after project development so as to enable optimum utilization of existing network and reduce overall project cost.
 - b. Mechanism for shared utilization of transmission capacity may be incorporated, wherein multiple small RE projects can collectively utilize a single connectivity point and maximize the efficiency of infrastructure.
- iv. Imposition of new restriction on previously granted connectivity could disrupt project timelines, financial planning and overall project viability. The objector has suggested the following key concerns on above aspects:
 - a. Disruptions to ongoing project which have already secured connectivity under the previous framework and have made financial and operational commitments based on those terms. Retrospective changes could lead to delay, increase costs and potential legal challenges as certain actions cannot be undone.
 - b. The retrospective application of change can undermine investor confidence as it introduces uncertainty and the risk of regulatory unpredictability affecting the investor confidence.
 - c. The objectors have suggested that any new provisions related to the transfer of connectivity or restriction on development model be introduced to the project which have been granted connectivity after issuance of Order No. 01 of 2024 so as the connectivity which was granted prior to aforesaid date of Order are not affected.
- v. Renewable energy parks play a critical role in aggregating multiple RE projects and providing shared infrastructure i.e. pooling station, dedicated

transmission lines, and other ancillary services being essential for scaling up of RE development. There are following challenges which need to be considered:

- a. The restriction on transfer of connectivity may hindered the development and expansion of RE parks.
- b. RE park developers secured connectivity for the entire park and then facilitate open access for individual generator or consumers within the park.
- c. The lack of clarity on rights of RE park developers could disrupts the process leading to delays and inefficiency.

d. The following suggestions are made to overcome above issues:

1. Clarify status and right of RE park developer within regulatory framework which include provisions that RE park developer secure connectivity and subsequently transfer it to individual generator or consumer within the park.
2. Encourage the development of RE parks by providing clear guidelines with respect to role and responsibility of RE park developers for ensuring that this entity can operate effectively within regulatory framework.

- vi. The restriction on transfer of connectivity and signing of transmission agreement may create barriers for those industries who have put up their RE projects to meet renewable energy requirement. It creates barriers for small individual industries to secure separate connectivity which disincentivize their participation in RE projects in compared to large projects / consumers.

The objectors have made following suggestions on above issue:

- a. Facilitate large industries as RE project developer providing benefit of developer model flexibility.

- b. Permit transfer of connectivity from developers to individual entities post development of RE projects.
 - c. Introduce incentives for large industries to participate in RE projects development offering preferential tariffs.
 - d. Faster processing time for connectivity approvals and provide support to encourage collaboration with RE developers.
- vii. The restriction on transfer of connectivity etc. could stifle the innovation. It affects and limit the ability of developers and other stakeholders to explore new models for RE development. The objectors have made following suggestions:
 - a. To accommodate the transfer of connectivity to bring efficiency, innovation and growth of RE capacity. It helps to achieve long term sustainability goal through RE development.
 - b. Encourage pilot project experiment business models by providing temporary exemption or relax regulatory requirement for innovative projects.
- viii. The State of Gujarat is frontrunner in RE sector. The energy need is a critical for State and it requires reduced carbon footprint for sustainable development. The restriction put up in Order No. 01 of 2024 poses significant impact on RE development. By removing the restriction on transfer of connectivity, it will be helpful for development of RE sector in the State. The objectors have requested to considered broader implication of current regulatory framework on RE sector goals and take proactive steps to ensure that these goals are not compromised.
- ix. The intention of Clause 4.5 of approved procedure for grant of connectivity framed by the Petitioner and approved by the Commission and the provision under the para 3.10 (c) of Order No. 01 of 2024 dated 22.02.2024 is to prevent the transfer/trading of grid connectivity whereby individual who apply for connectivity shall have to sign the transmission and wheeling agreement.

- x. RE projects are being established through RE project developers or RE park developer whereby the RE project are allowed to transfer/sell to other entity. The restriction put up for transfer of connectivity is affecting the RE project developer or RE park developer developing RE project, which will intern jeopardize promotion of RE sources.
- xi. The proposed amendment in Order No. 01 of 2024 dated 22.02.2024 for insertion of two proviso in (i) under clause 3.10 (c) of Order No. 01 of 2024 dated 22.02.2024 and (ii) under clause 4.5 of the procedure for grant of connectivity to project based on RE sources dated 07.01.2024, will enable development of RE projects in the State through developer model.
- xii. The intent of Order passed by the Commission and procedure for connectivity framed by Petitioner and approved by the Commission is to ensure that there shall neither any trading / transfer and / or cornering of connectivity by any person / developer.
- xiii. The Government of Gujarat vide its GR No. REN/eFile/20/2023/0476/B1 dated 04.10.2023 notified Gujarat Renewable Energy Policy-2023, under which, it is recognised / defined the project developer/RE park, who create requisite infrastructure and thereafter transfer project by such entity to another entity.
- xiv. Connectivity is pre-requisite for grant of open access. The 'connectivity agreement' and 'transmission agreement' / 'wheeling agreement' are different and distinct and therefore seeking of connectivity and seeking of open access may not be linked.
- xv. Connectivity agreement is an agreement between transmission service provider and person availing the said service. There are multiple RE generating stations/RE generators which are co-located in RE park and avails common connectivity at particular S/S and said connectivity for such RE generating

stations/generators with network of transmission licensee/transmission service provider is a common carrier of electrical energy.

- xvi. The connectivity of RE capacity is being obtained by RE project developer /RE park developer for the aggregate capacity under implementation of projects but the quantum of open access for RE capacity of individual entity will depend upon the requirement of each individual. Thus, once the connectivity is granted for aggregate capacity for RE projects, the same is to be allowed to transfer to another entities because the RE capacity of individual entity which is part of connectivity granted on aggregate basis, requires to transfer for the purpose of seeking open access.
- xvii. The purpose of Act is to ensure optimum utilization of assets and natural resources for promotion of renewable energy sources.
- xviii. The generating company and generating stations defined under the Act are different and distinct. The Para 3.10 of the Order No. 01 of 2024 dated 22.02.2024 recognize that the generating station has to achieve Commercial Operation upon compliance as provided in said para. Section 9 and 10 of the Act recognizes the generating stations. Therefore, once the Commercial Operation of the generating station is achieved, the Long Term Open Access/Medium Term Open Access/Short Term Open Access and transmission/wheeling agreement is to be signed by individual generator/consumer with concerned licensees.
- xix. If restriction is applied to all RE projects including to RE project developers and RE park developers who is developing multiple RE projects for different entities, it could hinder the promotion and development of RE projects under RE project developer model.
- xx. If provisions for developer and transfer of connectivity is removed than every consumer/project has to apply individual connectivity which may lead to either underutilization of transmission capacity and/ or erect more transmission lines/distribution lines.

- xxi. The developer who seek connectivity shall have to prove financial capability, acquire the land and analysis of sites having high wind potential which would lead to more financial implication on consumers/users for setting up RE projects, if there is restriction in transfer in connectivity. If developer model is permitted, it would be lead to a situation under which the large industries with high power consumption will be benefitted due to economy of scale and comparatively small industries will deprive from setting up small size RE projects, thereby creating discrimination between them.
- xxii. In RE project developer model, the RE park/project developer is only setting the RE park/project for selling the RE capacity to other entity prior to Commissioning of project. Therefore, there is need to create an enabling provision in Order No. 01 of 2024 as well as procedure for grant of connectivity by inserting the proviso as prayed for by the Petitioner in Petition.
- xxiii. The CTU in its procedure for connectivity does not provide for the requirement of declaring intention at the time of connectivity application if the entity is seeking connectivity as RE Project Developer / RE park Developer. The mode of open access has to be identified only while taking open access not at the time of seeking connectivity. The process for seeking approval for connectivity and open access are different and distinct from each other. The responsibility of ensuring open access should be independent of connectivity and may not be linked.
- xxiv. The power plant which is perceived to be captive/non-captive with the existing provision as on date of connectivity may get converted / qualified as non-captive / captive at the time of commercial operation date and go on change during its lifetime. Therefore, the need to declare intention at the time of seeking connectivity has no relevance.
- xxv. Once the connectivity is granted than there is an option for open access applicant to relinquish the capacity and to take new open access. Thus, the

option of switching over available to them during the life span of RE generators need to be given effect.

- xxvi. The time frame prescribed in the Order No. 1 of 2024 for creation of evacuation facility consist of bays, evacuation line and metering system needs to revisit and change.
- xxvii. In case of non-payment of the estimate or non-signing of agreement, the connectivity bank guarantee needs to be returned as no capacity is being booked.
- xxviii. The supervision charges for creation of transmission network needs to revisit and revised.
- xxix. Some of the objectors have stated that they suffered severe financial consequences due to conflicting policy / regulations issued by different arms of Government. The project developers have made huge investment for different capacity of RE projects in the range of 30 MW to 120 MW by individual project developer with investment the range in Rs. 250 Cr to Rs. 1500 Cr by such individual developers. They have also submitted that the provision of connectivity procedure prepared by GETCO and approved by the Commission, were implemented retrospectively, which is having severe consequences on their ongoing projects. It would disrupt financial planning and project timeline leading to significant operational challenges.
- xxx. The inconsistency in the regulatory framework affecting their legitimate expectations and rights of such RE project developer who have made huge investment based on the connectivity which was granted to them by GETCO prior to the connectivity procedure dated 7.01.2023 as approved by the Commission. The projects of such developers deserve to be governed by old policy / norms related to connectivity i.e. norms prevailing prior to 7.01.2023, wherein the transfer of project /connectivity was permissible and in fact such

permissions are given to many project developers by GEDA and GETCO even after 07.01.2023.

- xxxi. Some of the objectors have stated that their RE projects were conceived prior to 07.01.2023 i.e. under old connectivity norms / policy wherein GETCO / GEDA was allowing transfer permission and transfer of connectivity and based on such consideration, they have taken various steps for implementation of RE projects such as application for grant of connectivity, payment of charges for load flow study, connectivity approval granted by GETCO in accordance with the load flow study, meetings with GETCO for feasibility and finalization of feeder bays at GETCO S/S, submission of bank guarantee for connectivity, estimate issued by GETCO for erection of feeder bays for evacuation of power from power plant, payment of supervision charges on metering equipment and bays at GETCO end, agreement for bays work at GETCO S/S, approval by GETCO for appointment of GETCO approved contractor for erection of feeder bays at GETCO S/S along with metering bays, connection agreement with GETCO, approval under Section 68 and Section 164 of the Electricity Act for carryout bays works at GETCO end and creation of dedicated line from pooling stations of plant to GETCO S/S, in some of the cases grant of development permission and transfer permission by GEDA, permission for transfer of connectivity and signing of transmission agreement etc. by GETCO, CEI drawing approval for feeder bays & dedicated line, charging permission granted by CEI for feeder bays etc.
- xxxii. The objectors have further stated that many of the aforesaid activities were carried out prior to 07.01.2023 and some of the activities are carried out after 07.01.2023. It is also stated that the Objectors have made huge investment varying in the range of Rs. 450 Crores to Rs. 1500 Crores by various individual project developers for development of different capacity of RE power projects having aggregate capacity of around 275 MW as stated by the petitioner in the Petition. As on date of Order No 01 of 2024 dated 22.02.2024 or thereafter, their RE projects were either ready for commissioning or GEDA has already

witnessed the commissioning of projects and even energy is injected in the grid and GETCO is recovering transmission charges as per Transmission Agreement. While, in some of the cases, even though their projects were ready for commissioning, GETCO has denied for signing of transmission agreement & grant of open access and/or GEDA has denied Transfer Permission for such projects after Order No. 01 of 2024. GETCO /GEDA has denied signing of transmission agreement and/or transfer permission and / or commissioning of such project, relying on connectivity procedure dated 07.01.2203 readwith Commission's Order No. 01 of 2024, which is unjustified and severely affecting to their ready to use projects because they are deprived of the revenue from generation of electricity. It is submitted that in case of other similarly placed RE projects i.e. those which were granted connectivity prior to the connectivity procedure dated 07.01.023, GETCO / GEDA has allowed commissioning of projects even after 07.01.2023 based on transfer permission granted to such developers. The list of such projects as produced by the Objector alongwith their submission on affidavit is reproduced as under:

Name of project	Hybrid capacity in MW
Amp Energy Green Nine Pvt Ltd	30
Amp Energy C&I Two Pvt Ltd	29.7
CleanMax Dhyuti Pvt. Ltd.	6.6
CleanMax Rudra Pvt. Ltd.	3.3
Clean Max Astria Private Limited	3.3
CleanMax Hybrid 2 Power Pvt. Ltd	6.6
CleanMax Meridius Pvt. Ltd.	3.3
CleanMax Thanos Pvt. Ltd.	3.3
CleanMax Kratos Pvt. Ltd.	3.3
Clean Max Bloom Private Limited	3.3

Name of project	Hybrid capacity in MW
Cleanmax Vasundhara Private Limited	3.3
Clean Max Ruby Private Limited	6.6
Clean Max Prithvi Private Limited	6.6
Renew Surya Uday Pvt. Ltd.	16.68
Renew Green (GJS One) Pvt. Ltd.	6.67
Renew Green (GJS Two) Pvt. Ltd.	10
Renew Green (GJS Three) Pvt. Ltd.	18.34
Renew Green (GJ Five) Pvt. Ltd.	6.67
Renew Green (GJ Four) Pvt. Ltd.	5
ReNew Green (GJ Six) Pvt. Ltd.	15.4
Renew Green (GJ Seven) Pvt. Ltd.	15.4
ReNew Green (G) Eight) Pvt. Ltd.	23.8
Renew Green (GJ Nine) Pvt. Ltd.	15.4
Renew Green (GJ Ten) Pvt. Ltd.	35
Renew Green (GJ Eleven) Pvt. Ltd.	9.9
Aditya Birla Renewables Solar Ltd	21
ABRel Solar Power Ltd.	21
ABRel Century Energy Ltd.	10.5
Aditya Birla Renewables Energy Ltd.	23.1
FPEL Sunrise Pvt. Ltd.	5.4
FP Crysta Energy Pvt. Ltd.	5.4
FPEL Beat Energy Pvt. Ltd.	2.7

Name of project	Hybrid capacity in MW
FPEL Surya Pvt. Ltd.	8.1
FP Eco Energy Pvt. Ltd.	2.7
Total	432.6

xxxiii. The Objectors have requested that the Commission may grant relief by allowing such RE projects to commission, having aggregate capacity of around 275 MW stranded since long period due to different interpretation of the connectivity procedure and Order of the Commission for different entities by the authorities. Based on above, it is requested to allow commissioning of such project to avoid discrimination amongst the generators and optimum utilization of RE resources installed by such developers in the State.

xxxiv. Some of the Objectors have submitted the lists of events to apprise the Commission with regard approval activates carried out for development of their RE project which are implemented based on connectivity granted by GETCO prior to 07.01.2023 and not allowed to grant of transfer permission / grant of open access & signing of transmission agreement and commissioning of project by GETCO/ GEDA pursuant to Order No 01 dated 22.02.2024. The list of events as submitted by Objector in relation to one of the RE project stranded due to above, is reproduced as under:

No.	Event	Date
1	Application for Grant of Connectivity	13.07.2021
2	GETCO reply to the letter dated 13.07.2021	14.07.2021
3	Payment of Load flow study charges	19.07.2021
4	Approval granted in accordance with the System Study	06.08.2021
5	Meeting held for feasibility and finalisation of 02 Nos of 66kV	25.04.2022

No.	Event	Date
	Feeder bay location between representatives from M/S Bajrang Wind Park (Kutch) and GETCO 220 kV.	As can be seen GETCO took 8 - 9 months [between Sr. No. 4 to 5] after completing the system study [Sr. 4] to provide the exact Bay No and other technical feasibility [Sr. No. 5], even after all prompt responses from M/S Sri Bajrang Wind Park (Kutch) Limited. It is pertinent to mention this delay in one of the reasons of non-commissioning of the project in previous Gujarat Wind- Solar Hybrid Power Policy-2018 by CGEHEPL and CGEH Shree Digvijay Cement Green Energy in capacity of Transferee whereas others, as more specifically explained in para 20, could do it even after having connectivity in Developer mode and were not subject to the non-transferability clause of GETCO Procedure dated 7.01.2023. Sr. No. 5 was important because it provided certainty of getting Bay and connectivity at the Otha Substation without which land couldn't have been acquired.
6	Bank Guarantee Submission to GETCO	22.06.2022 i.e, all requirements by the applicant for connectivity were completed more than six months prior to the issuance of the procedure dated 07.01.2023
7	Date for Submission of feasibility along with the estimate of feeder bays for evacuation of 120 MW	23.06.2022
8	Estimate informed by SE (TR) GETCO Ameli and EE (Cons) Ameli for GETCO bay end.	13.07.2022

No.	Event	Date
9	Payment of Supervision Charges on the metering equipment and bay at GETCO end.	08.08.2022
10	Agreement with GETCO for Bay work at OTHA Grid Substation	09.09.2022
11	Approval granted for Contractors for Erection of 66kV Class feeder bay at 220 kV Otha s/s along with metering bay	12.10.2022
12	Connection Agreement between GETCO and M/S Sri Bajrang Wind Park (Kutch) Limited	14.10.2022
13	Kick off Meeting in accordance with Letter dated 06.08.2021	12.12.2022
14	Approval granted under Section 68 and Section 164 of the Electricity Act for carrying out dedicated line and bay at GETCO end.	26.12.2022
15	Dedicated line from M/S Sri Bajrang Wind Park (Kutch) Limited pooling Station to GETCO Otha S/S	29.05.2023
16	CEI Inspection for 66kV feeder bay	02.06.2023
17	Charging Permission granted for 66kV Feeder Bay at 220/66kV Otha Substation of GETCO	15.06.2023
18	Development permission by GEDA	Granted after 07.01.2023
19	Transfer permission by GEDA	Granted after 07.01.2023
20	GETCO permission for open access and signing of transmission agreement	Granted after 07.01.2023

xxxv. It is submitted that Government of Gujarat vide GR dated 20.06.2018 issued Gujarat Wind Solar Hybrid Power Policy 2018 wherein there is no restriction contained for transfer of connectivity and GETCO/ GEDA continued to allow the project developer for transfer of connectivity.

- xxxvi. It is submitted to consider the position that the prevailing regulatory framework both before and even after introduction of connectivity procedure prepared GETCO and approved by the Commission, GETCO has consistently allowed a generator which has received transfer of capacity permission from GEDA to use the connectivity of original developer. The position has been changed only by enforcement of para 3.10 (c) of Order No. 01 of 2024 dated 22.02.2024 of the Commission by GETCO and GEDA. Prior to 22.02.2024, the connectivity which were granted prior to 07.01.2023, were permitted to transfer in name of transferee project developers, though the connectivity procedure which came in force on 7.01.2023 provides for non-transfer of connectivity. Only after 22.02.2024, such projects which are having connectivity prior to 07.01.2023, have been restricted from transfer permission /transfer of connectivity / commissioning by GEDA/GETCO.
- xxxvii. The GEDA guidelines / terms and conditions for setting up of wind-solar hybrid projects under Gujarat Wind Solar Hybrid Policy 2018 provides for obtaining open access by the individual entity and no open access can be availed by the project developer. Based on above, some of the objectors have obtained open access without connectivity holders having any rights to it. Such practice continued even after the promulgation of procedure dated 07.01.2023. Even GEDA executive procedure / instructions / guidelines/ terms and conditions for setting up wind, solar, wind-solar hybrid projects under Gujarat Renewable Energy Policy, 2023 provides that the capacity will be transferred to the transferee entity upon a request from transferor entity.
- xxxviii. The RE capacity originates from a connectivity, meaning that upon the transfer of RE capacity, the connectivity is also get transferred. Therefore, this guidelines and practices clearly established that the objectors have legitimate expectations of using the original connectivity after receiving transfer permission from GEDA as this was consistent with the regulatory framework within the State.

- xxxix. GETCO has permitted connectivity granted to developers to be utilized by other entities through approval of capacity transfer permission by GEDA, which establishes that the transferee had a legitimate expectation of utilization of connectivity granted to erstwhile developer following the capacity transfer approved by GEDA.
- xl. Prior to the procedure for connectivity prepared by GETCO and approved by the Commission on 07.01.2023, there was no bar for utilization of connectivity granted to erstwhile developer based on the transfer permission granted by GEDA. Based on prevailing norms and guidelines that connectivity is permissible to transfer, the project developers have made significant progress in the project, transferred the project capacity / connectivity to another generating company as per the extant policy of GEDA/ GETCO, generating companies have also gone ahead with the financing of the project on the basis of extant Policy and norms related to connectivity. The applicability of clause 3.10 (c) of Order No. 01 of 2024 dated 22.02.2024 for earlier connectivity which was considered as deemed stage II connectivity grantee under the connectivity procedure dated 07.01.2023, be exempted because various projects related activities have been initiated and completed by them before promulgation of GETCO procedure dated 07.01.2023 and these actions cannot be undone. The retrospective application of connectivity procedure dated 07.01.2023 by the concerned authorities lead to delay, increase in cost and potential challenges for ongoing projects to comply with new requirement as certain thing which have been done as per the prevailing norms cannot be undone.
- xli. GETCO has suddenly in its procedure dated 07.01.2023 introduced restrictions and applied the same even for the projects to whom connectivity was granted prior to 7.01.2023. The project developers who have carried out significant investment and developing their projects with consideration of the connectivity which was granted by GETCO has suddenly changed and affected such ongoing projects. Further, the projects for which connectivity was

granted prior to 07.01.2023, envisaged and carried out project execution works by investing huge amount, have been restricted for commissioning after Order No. 01 of 2024 dated 22.02.2024 and RE capacity of these projects remained stranded since long.

- xlii. Some of the Objectors have submitted that the petition is not admissible and maintainable as per the provisions of law and GERC (Conduct of Business) Regulations, 2004 and connectivity procedure approved by the Commission. It is a clear case of modification of Order No. 01 of 2024 dated 22.02.2024, which is not permissible in the present petition. Once the order is passed the Commission, it becomes *functus officio*. The Commission can only review its Order in case of (i) apparent error, (ii) sufficient cause (iii) documents not available on record while passing the order. There is no other reasons or grounds on which the Commission can review its own order.
- xliii. The erroneous decision of the Commission is not a ground for review but it require to file an appeal against such Order for modification in Commission's legal and valid order which is in accordance with procedure for grant of connectivity prepared by GETCO and approved by the Commission. It is also against the provision of Act and Regulation no. 72 of GERC (Conduct of Business) Regulations, 2004.
- xliv. Some of the Objectors have submitted that the Petitioner has not joined original objectors who have participated in the proceedings for discussion paper on tariff framework for Wind-Solar Hybrid Projects leading to Order No. 01 of 2024 dated 22.02.2024 and not made these objectors as Respondents in present Petition . Thus, the Petition is not admissible and maintainable on ground of non-joinder of necessary parties.
- xlvi. Some of the Objectors have submitted that as per the provisions of GERC Open Access Regulations, the connectivity is granted only to generating company, licensees, and consumers for generation, supply and transmission of electricity, trading of electricity, consumption of electricity. The developers are

not recognized under the Act, Rules and Regulations. Therefore, any amendment in tariff order passed by the Commission is not permissible as per law. Any change in procedure of connectivity regulations proposed by GETCO is contrary to the principle of Act, Rules and Regulations.

- xlvi. The open access is provided under Section 39 and 42 of the Act to the eligible persons on transmission and distribution network who are generator, consumer, generating company or licensee. The person who is not fulfilling above criteria for grant of open access is not eligible for grant of connectivity.
- xlvii. Some of the objectors have submitted that the Commission may verify the existing connectivity granted by GETCO to different persons in previous 10 -15 years wherein the developers who are neither generating company nor consumers nor license have obtained the connectivity but have not executed project and holding the connectivity granted to them for many years. The Petitioner GETCO is not recovering the transmission charges from such connectivity holders corresponding to connectivity capacity granted by GETCO to such developers/generators/consumers after completion of one or two years as case may be. GETCO/distribution licensee shall require to recover transmission charges /distribution charges for the full capacity of the connectivity granted to such entity. However, such charges are whether recovered or not is not established. The Commission may direct to GETCO/distribution licensee to provide the following details:
 - a. How many capacity of connectivity which was granted in previous years.
 - b. How much capacity against such connectivity granted holders have commissioned project.
 - c. How much transmission/wheeling charges paid by such connectivity holders.
 - d. Whether the connectivity holders have not completed the plant in stipulated time period. The full transmission charges/wheeling charges are recovered from such connectivity holders.

- e. If the project developer have not executed the project in stipulated time limit the security deposit enashed by GETCO or not.
- f. The connectivity which was granted earlier by GETCO/Discoms and for ideal capacity of connectivity wherein no transmission or wheeling of energy took place canceled by Discoms or GETCO or not.

The above details are required to place up on record by GETCO before the Commission and the Commission may take appropriate decision regarding non-compliance of Commission's Order and non-compliance of provisions of Government Policy by the project developers.

- xlvi. Allowing the transfer of connectivity to developers and other intermediary entities will result in sold or transfer of connectivity to generators or consumers at a premium which would inflate the cost of energy generation. This would lead to increase in power purchase tariff in the State of Gujarat affecting both market and end consumers.
- xlix. Some of the objectors have submitted that according to petition, the Applicants are required to specify the purpose of connectivity whether for captive use, third party sale, PPA or any other use at the time of connectivity application. Further, the proposed amendment restricts any modification to the purpose of connectivity once it has been granted. This restriction will adversely impact the development of RE project in the State.
 - 1. The RE park developer while developing park could not know the exact purpose for which the connectivity will be used since the RE generators using such parks would not be finalized at the time of connectivity application. The transfer of connectivity will not be allowed without declaring the intention/purpose in the connectivity application for which the connectivity shall be used. This will negate the purpose of seeking amendment in current connectivity procedure/order.
 - li. The RE park would be developed by private entities, the charges for development of such RE park would not be regulated and accordingly the RE

park developer would start charging premium not only for the development that has been done but also towards the grid connectivity which is National/State resource and is in short supply. This will lead to trading/sale of state resources, i.e. grid connectivity which will ultimately impact the consumers through increased tariff.

- lii. Historically RE park developers have blocked/squatted on connectivity when it was allowed under the developer model and the transfer of connectivity to the end user was permitted. This practice led to inefficiencies and delay in development of RE projects as connectivity rights were held without actual project development. To address this issue the Commission has introduced connectivity procedure aimed at preventing such occurrence by removing intermediaries.
- liii. It submitted that the Commission may allow all source of Renewable Energy Projects for development of RE parks i.e. Solar, Wind, Solar-Wind Hybrid including Energy Storage System where developer obtains the connectivity and thereafter transfers the individual projects to other entities.
- liv. It is submitted that it is the need of the hour that every size of industrial and commercial consumer in the sector gets a fair and equal chance for their bit of sustainability compliance for their growth which will ultimately lead to the socio-economic development and growth of the society, the state and the entire nation at large.
- lv. It is further submitted that the objective of the Gujarat Renewable Energy Policy- 2023, is also to encourage better resource utilization for enabling cost effective and reliable power supply to consumers through large scale adoption of renewable energy and to ensure a smooth transition to clean energy regime. Further Government of Gujarat has suggested for development of RE Park under provision of Gujarat Renewable Energy Policy-2023 providing that "In order to minimize the cost of common infrastructure and optimize the evacuation infrastructure along with fulfilling the objectives of the Policy, it is

also desirable to promote the development of RE parks, which include solar parks, wind parks, and hybrid parks (i.e., solar-wind)". The Commission is requested to allow transfer permission for all source of Renewable Energy Projects.

- lvi. It is submitted that Ministry of New and Renewable Energy (MNRE) vide Office Memorandum (OM) dated 16th June 2023 has extended the scheme for "Development of Solar Parks and Ultra Mega Solar Power Projects" wherein it is provided that the project developer may establish common transmission facility and pooling stations for individual Solar projects set up for entering into PPA with Central Utilities/ State Utilities/ DISCOMs / Third parties/ Captive users. It is submitted that many RE project developer/ RE park developer have already acted based on previous Gujarat RE policy, 2018, existing Gujarat RE Policy, 2023 and scheme notified by Central Government and established RE projects under RE developer model.
- lvii. It is submitted that as per legal principle of estoppel, it is not correct to change the position when RE project developers/ RE park developers have already acted upon based on the provisions stipulated in existing policies and guidelines.
- lviii. It is submitted that the interpretation that connectivity should be determined based on the billing or settlement mechanism (such as captive or non-captive) lacks technical justification, as these mechanisms are merely settlement procedures and do not influence the mode of connectivity or its grant procedure. It is further submitted that the Central Transmission Utility (CTU), in its procedures for granting connectivity, does not require such criteria, nor is there a provision in the CTU procedure to identify the mode of connectivity while applying for connectivity. The mode is determined when applying for Open Access. Therefore, it is suggested that the State Transmission Utility (STU) should follow the same procedure. The processes for Connectivity and Open Access are inherently distinct, and thus, the Petitioner GETCO should grant connectivity based solely on the application from the generator or

consumer. Ensuring Open Access should be treated as a separate responsibility from grant of connectivity.

- lix. It submitted to take a note that once connectivity is granted, there is an option for Open Access, allowing the applicant to relinquish capacity and opt for new Open Access. Therefore, the applicant should not be required to select a connectivity option (i.e, Captive, Third Party, or Sale to DISCOM) upfront. The flexibility to switch between these options should be available at any point during the 25-year lifespan of the Renewable Energy Generator.
- lx. It is submitted that the RE project execution timelines as specified in the Order No. 1 of 2024 should be linked with the voltage level of EHV infrastructure instead of MW capacity of projects.
- lxi. It is submitted that since GETCO has continued to recover the Supervision Charges @7.5% from Wind Power Project and since the Hybrid Project is also having predominantly wind as major component in its construct, it is requested to direct the Petitioner to consider the Supervision Charges @ 7.5% for Hybrid Power Projects as already approved by Hon'ble Commission for Wind Power Projects.
- lxii. It is submitted that the Clause No. 3.10 and subclause No. 3.10 (c) in the Tariff Order No. 01 of 2024 contradict each other and thus needs to be amended in line with the provisions of clause 3.10 of the Order.
- lxiii. It is submitted that the Generating Company and Generating Stations are two separate entities and Developer Company is nothing but a Generating Company and a transferee is nothing but a Generating Station within the Generating Company. It is thus submitted that if the assets are owned by the Generating Stations and the commercial operation is also to be attained by the respective generating station (s), the Open Access and wheeling Agreement including commissioning shall be possible only with the Generating Station who shall be termed as transferee entity.

- lxiv. It is submitted that in the Commission may consider to introduce the option of providing a Bank Guarantee in lieu of the Registered Sale/Lease Deeds as a prerequisite for granting Stage II connectivity so as to avoid undue financial burden on the developers for arranging for the project land as a prerequisite for applying stage II connectivity.
- lxv. It is submitted that the concern with regard to trading of the connectivity by the grantee is taken care of by inserting stringent conditions of furnishing bank guarantee and documentary proof of legal possession of 50% of the land required for the RE project at the time of applying for grant of connectivity to GETCO.
- lxvi. It is suggested that the purpose of connectivity should be allowed to be decided at the time of signing of the Bulk Power transmission agreement (BPTA) instead of it being required to decide at the time of application of the connectivity. The gestation period of a RE project from approval of grid connectivity to charging of the transmission line is about 18 months, during which and also prior to that the identification of prospective clients - be it captive or for third party sale is normally being undertaken, which cannot be firm at the time of application for connectivity.
- lxvii. It is proposed that the repowering projects should get priority in grant of additional connectivity capacity (for the incremental capacity as a result of repowering), provided that the such application for incremental connectivity fulfils all other terms and conditions of the procedure specified for seeking connectivity and those specified in the Gujarat Renewable Energy Policy- 2023.
- lxviii. Some of the Objectors have submitted that they have been allowed connectivity prior to 07.01.2023 and set up the projects based on the transfer permission granted to them by GETC/GEDA. In certain cases, they have been allowed for injection of energy in the grid pursuant to transmission agreement signed with GETCO. However, credit of injected energy is not provided for want

of commissioning certificate from GEDA. Therefore, they have requested for grant of credit of energy injected in the grid.

- lxix. Some of the Objectors have stated the they have been allowed connectivity prior to Order No. 01 of 2024 and the timeframe for commissioning of project as provided in the Order No. 01 of 2024 is different than timeframe provided in the earlier Order / Policy. Therefore, their projects may be allowed to govern by the timeframe provided in the earlier Order / Policy.
- lxx. Some of the Objectors have made suggestions on various aspects related to procedure for grant of connectivity such as priority, change in requirement for applying for connectivity, right to use, flexibility in the procedure etc.
- 7. The matter was heard on 10.09.2024. On that day various stakeholders made their submissions.
- 8. The stakeholders have mainly reiterated the objections/suggestions stated in para above. Further, some of the objectors have made additional submissions and placed emphasis on certain aspects during the hearing, the gist of which are as under:
 - i. If the restriction in transfer of connectivity is to be applied to all RE Projects, including to RE Project Developers and RE Park Developers who develop multiple RE projects for different entities, this could significantly hinder the development and promotion of RE projects under the RE Project Developer Model. Further, if provision for developer and transferee is removed, then individual consumer / project has to apply for individual connectivity which may lead to either under-utilization of transmission capacity and / or more transmission lines have to be erected. Developer who sought connectivity shall have to prove financial capability, acquire land and analysis of sites having high wind potential which lead to more financial implications on small consumers/users for setting up of RE projects. Further, large industries with high power consumption will

be benefited and comparatively small industries will remain deprived creating discrimination between them. Therefore, the transfer of connectivity be allowed without any kind restrictions and the concerns regarding trading of connectivity rights and blockage of connectivity by certain entities etc is being taken care by other provisions made in the connectivity procedure dated 07.01.2023 such as requirement for applying stage-II connectivity within six months from grant of stage-I connectivity with requisite documents related to financial closure and land along with submission of Bank guarantee.

- ii. The Clause no. 3.10 and subclause 3.10 (c) in the Tariff Order No. 01 of 2024 contradict each other and thus needs to be amended in line with the provisions of clause 3.10. It is submitted that under the Electricity, Act, 2003, the Generating Company and Generating Stations are defined distinctly and the Developer Company is nothing but a Generating Company and a transferee entity is nothing but a Generating Station within the Generating Company. Thus, if the assets are owned by the Generating Stations and the commissioning of the project is also to be attained by the respective generating station (s) and the Open Access and wheeling Agreement including commissioning shall be possible only by the Generating Station who shall be termed as transferee entity. Therefore, connectivity allowed to the project developers who is termed as Generating Company, be permissible for transfer of such connectivity in name of individual generating station, who will in turn seek open access and commissioning.
- iii. It is submitted that in case of certain RE projects, the connectivity was granted prior to 07.01.2023 and project developers went ahead for execution of the projects based on the premise that the transfer of connectivity and transfer permission is permissible as per the prevailing norms as applicable on date of grant of connectivity. However, owing to the prohibiting clauses in Wind Solar Hybrid

Tariff Order No. 01 of 2024 in regard to restriction for transfer of connectivity, such RE projects are not allowed for transfer permission / transfer of connectivity / grant of open access / commissioning of RE project by GEDA/GETCO despite of projects are ready for commissioning and Electrical Inspector having conducted the inspection of the WTGs, Solar Panels and Transformers of the RE projects and having granted energisation permission. In certain case, GEDA, Distribution Companies and/or GETCO have witnessed the commissioning of these Wind-Solar Hybrid Projects, and they have met all the requirements for commissioning as per the Order No. 01 of 2024 and even in some cases injected energy into the grid. However, in the absence of grant of commissioning certificate by GEDA citing the restrictive provisions in the Tariff Order No. 01 of 2024, such plants are not able to get the credit of energy injected.

- iv. It is submitted by the Stakeholders that such project developers who have been granted connectivity prior to 07.01.2023 and went ahead with execution of the RE projects by carrying out project execution activities prior to and after 7.01.2023 based on the prevailing norms / policy in vogue wherein transfer of connectivity was permissible, be allowed for grant of transfer permission/transfer of connectivity/grant of open access and commissioning of the project for transmission/wheeling of electricity at consumption place.
- v. The connectivity procedure dated 07.01.2023 and Order No. 01 of 2024 dated 22.02.2024 providing for restriction in transfer of connectivity, came into existence at a much later stage, by the time, the RE project developers have proceeded to implement the projects. The project developers have made huge investment for installation of RE projects and completed the projects. However, the said projects could not be utilized to generate renewable energy and remained stranded since long period as GEDA and GETCO is not allowing commissioning of project in view of stipulations contained in the Order No. 01 of 2024 wherein it is stated that the grantee of

connectivity and grantee of Open Access shall be the same entity i.e. non-transferability of connectivity for RE projects.

- vi. It is submitted that in certain other cases of RE projects for which connectivity is granted prior to 07.01.2023, GEDA and GETCO has allowed to commission the project after the connectivity procedure dated 07.01.2023 based on the transfer permission granted to such developers i.e. even after date of connectivity procedure which restricts transfer of connectivity. Thus, GEDA and GETCO has been interpreting the provisions of connectivity procedure dated 07.01.2023 differently for different entities, namely, different approach for similarly placed RE projects, which lead to stranding of Wind-Solar Hybrid projects of the objectors since long. Therefore, in cases where connectivity has been granted prior to 07.01.2023, such RE projects be allowed to govern by the old norms / policies under which connectivity was granted, and allow for transfer of connectivity and be permitted for commissioning of such RE projects for transmitting/ wheeling of energy at consumption place on urgent basis.

9. The Petitioner GETCO has filed consolidated response to the objections received in response to public notice and during the public hearing, summarized as under:

- 9.1. The Petitioner has submitted that in pursuance to the direction issued by the Commission in the daily order dated 09.08.2024, the Petitioner had published the Public Notice on 14.08.2024 in Newspapers and compliance affidavit dated 16.08.2024 was filed to place on record the above. In pursuance to the said Public Notice, the Petitioner has been forwarded the comments/objections received by the office of the Commission. The Petitioner has filed consolidated submissions in response to the said objections and the public hearing on 10.09.2024.

- 9.2. The Petitioner has stated that the Solar Tariff Order dated 31.08.2024 and Wind Tariff Order dated 31.08.2024 have been issued by the Commission and there is no restriction or bar in the transfer of connectivity as has been incorporated in clause 3.10 (c) of the Wind-Solar Hybrid Order dated 22.02.2024.
- 9.3. It is submitted that the Petitioner has only proposed certain specific aspects in the Petition and the same may be considered. Further the public notice has also been issued only in respect of the Petition filed by GETCO and therefore it would not be appropriate for aspects not in issue in the Petition to be considered in the present proceedings. The Petitioner is not responding to issues outside the scope of the Petition.
- 9.4. As regard to the submission against the maintainability of the Petition, the Petitioner has submitted that the present Petition has been filed for seeking amendments to the Detailed Procedure for connectivity and the wind-solar hybrid Tariff Order. There can be no dispute that the Commission has power to amend the Detailed Procedure and the Hybrid Order. GETCO is only representing before the Commission by way of the present Petition and presenting the reasons for such amendment. There cannot be any bar for the Commission to entertain such representations by way of the Petition. There were representations in terms of difficulties faced by generators/developers and Government of Gujarat after detailed deliberations and discussions with GEDA, GUVNL, GETCO and stakeholders, has directed that appropriate steps be taken to seek appropriate amendments in cases of Developers developing RE Projects in aggregate and RE Park Developers. There also aspects of conflicting provisions raised in those representations as highlighted in the Petition.
- 9.5. The Commission has in the past entertained such Petitions for amendment and decided either to allow amendment or disallow amendment after following due process:

- a. Petition No. 1936 of 2021 decided on 11.06.2021 allowing amendment of Tariff Order.
- b. Petition No. 1672 of 2017 decided on 11.02.2021 rejecting amendment of regulations.

- 9.6. The Objectors are confusing Tariff Orders and Detailed Procedure with Orders passed in adjudication petitions which are final unless set aside in Review or Appeal. Section 62(6) recognizes that tariff orders can be amended. Further it cannot be that the Detailed Procedure once approved cannot be amended at all and if the Detailed Procedure is amended, it is permissible to amend the Tariff Orders to be in line with the Detailed Procedure. The regulatory orders can be amended if the Commission considers them necessary. Regulatory jurisdiction of the Commissions cannot be restricted in such a manner.
- 9.7. With regard to the claim of non-joinder of original objectors, the objectors are not parties to the Tariff Orders and do not need to be made parties. Further it is submitted that the Public Notice has been issued and all entities are allowed to participate. Therefore there is no issue on non-joinder of parties.
- 9.8. Some of the Objectors have objected and claimed that there cannot be any transfer of connectivity allowed even under Developer Model or RE Park. The objectors are raising hyper technical issues which are outside the scope of the Petition. The schemes referred to by GETCO were already there prior to the Detailed Procedure.
- 9.9. Some of the objectors have placed reliance on Open Access Regulations 2011 in regard to eligible entities which can seek connectivity. It is submitted that the said Regulations have to be read with the purpose and intent of optimum utilization of resources and promotion of renewable sources provided under the Electricity Act, 2003. In terms of the generating stations, in case of the Developer Model also, the developer is the generating company who is setting up the generating station and on sale of project capacity to another entity, the

said entity is the generating company which owns the generating station. The RE Park has been considered as the representative of the Generating stations developing the Park and providing the infrastructural facility and have been recognized by Government of Gujarat as well as other State Governments.

- 9.10. RE Parks seek connectivity on behalf of the Generating Companies which would establish the generating station in the Park. Even in regard to the inter-state transmission, RE Parks are recognized to be eligible for seeking connectivity and even open access. If the purposive interpretation is not followed, this would stall the process of RE development. RE Parks are recognized under the RE Policy issued by Government of Gujarat as well as by MNRE. It cannot be that the RE Parks being developed and promoted by the Government of India and State Government are left out of mechanism.

- 9.11. The RE Policy of Government of Gujarat also recognizes setting up of Solar parks (Clause 9) and Wind Parks (Clause 10) and further specifically refers to Renewable Parks to be promoted:

12. Renewable Energy Parks

12.1 In order to minimize the cost of common infrastructure and optimize the evacuation infrastructure along with fulfilling the objectives of this Policy, it is also desirable to promote the development of RE parks, which include solar parks, wind parks, and hybrid parks (i.e., solar-wind).

...

12.3 The Government of Gujarat may designate the Renewable Energy Park developer on a nomination basis, which may be Gujarat Power Corporation Limited or any other state government agency. The Guidelines issued by Central Government from time to time for development of Solar Parks shall be applicable to all Park Developers.

- 9.12. Section 86(1)(e) provides for promotion of renewable energy and in particular for connectivity to the grid. The Detailed Procedure itself recognizes that Procedure applies to RE Park Developers. When the Detailed Procedure already recognizes RE Park Developers and amendment are proposed to give effect to connectivity to such entity, then there cannot be any objection that the RE Park Developers are not eligible entities. The Central Commission also recognizes RE Park Developers.