

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2286 of 2023.

In the Matter of:

Petition under Section 42, 43, 50, 86 and other applicable provisions of the Electricity Act, 2003 read with GERC (Electricity Supply Code and Related matters) Regulations, 2015, GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 and other applicable Regulations of the Commission seeking for grant of additional time for completion and commissioning of 66kV transmission line and bays till physical release of 4500 KVA Contract demand by PGVCL.

Petitioner : Archean Chemical Industries Limited
D/4, NU-10B, Shaktinagar,
Opp. Lions Club,
Gandhidham, Dist. Kutch-370201.

Represented By : Ld. Adv. Kiran P. Joshi

V/s.

Respondent No. 1 : Paschim Gujarat Vij Company Ltd.
Off Nana Mava Main Road, Laxminagar,
Rajkot-360004.

Represented By : Ld. Adv. Srishti Khindaria along with
Mr. S.N. Parmar.

Respondent No. 2. : Gujarat Energy Transmission Corp. Ltd.
Sardar Patel Vidyut Bhavan, Race Course Circle,
Vadodara – 390007, Gujarat.

Represented by : Ld. Adv. Srishti Khindaria along with
Mr. Shobhraj Jayswal

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

Date: 08/09/2025.

DAILY ORDER

1. The present matter was kept for hearing on 29.08.2025.
2. Ld. Adv. Kiran Joshi appearing on behalf of the Petitioner made submissions traversing through various documents and argued the matter at length referring to different provisions of the Supply Code, SOP and factual aspects.
 - 2.1. She submitted that the present petition has been filed by the Petitioner seeking extension of time period for completion & commissioning of 66 kV line & bays till power supply at 4500 kVA contract demand is physically released by PGVCL.
 - 2.2. She submitted that the Petitioner on 28.03.2022 made an application with Respondent No. 1, PGVCL for release of new power demand of 4500 KVA at 66 kV Voltage level for its chemical manufacturing / processing facility at village: Hajipir, Ta: Bhuj, Dist: Kutch.
 - 2.3. She submitted that on 22.06.2022, Respondent No. 2 had forwarded estimate to the Respondent No. 1 stating that M/s. Archean Chemical Industries Ltd shall undertake the work for power demand under Option – 3. She further submitted that based on the estimate dated 22.06.2022, the Respondent No. 1, PGVCL, issued estimate to the Petitioner on 04.07.2022 which includes GETCO estimate charges under Option-3 as well as PGVCL charges.
 - 2.4. She submitted that with an intention to get power supply on early basis, the Petitioner had deposited the estimate amount of Rs. 5,91,44,848/- to the

Respondent No. 1 on 28.07.2022 and signed HT Power supply agreement with the Respondent No. 1 on 03.08.2022.

- 2.5. She further submitted that the execution as per GETCO's scope of work for erection of 66 kV line and bays work involved various consent / permission / clearance/ approvals from GETCO & PGVCL which is time consuming process.
- 2.6. She further submitted that the Petitioner is thus required to execute GETCO's Scope of work as per the scope of work approved by GETCO in the estimate and as per the line route surveyed and approved by GETCO.
- 2.7. She submitted that the delay in completion & energization of 66 kV line & bays works and consequent delay in physical release of power supply, is mainly attributable to (i) Site related adverse situations due to nature of soil in the line route (ii) Excessive, prolonged monsoon activities and unseasonable rainfall in the areas during relevant period (iii) Delay in getting NOC from the Forest Department;
- 2.8. She submitted that as the land area falling in the Greater Rann of kutch, the nature of soil of the line route being very soft/slushy leading to requirement of abnormally higher amount of foundation works. She further submitted that out of total 127 Nos. of 66 kV tower, 108 Nos. of tower's locations are falling in the Banni grassland having soil with very low bearing capacity . She further submitted that 85% of the line works was to be executed in soft/slushy soil being passing through Banni grassland Rann of Kutch.
- 2.9. She further submitted that due to saline land, even slightest amount of rainfall in the area aggravates the water logging & site approachability making difficult to execute civil foundation /piling works till the site situation gets improved.

- 2.10. She submitted that the region witnessed abnormally higher amount of rainfall in the year 2022 and also the monsoon activities was exceptionally prolonged up to Oct-2022 which had led to situation of severe water logging and making it difficult to approach the line route let alone commencement of physical works related to civil foundation for towers at site. Due to this, Civil foundation work was delayed for around 85% of tower locations falling in the affected area.
- 2.11. She submitted that foreseeing the delay in completion of line work due to reason beyond reasonable control of the Petitioner, the Petitioner vide email dated 08.10.2022 apprised the PGVCL & GETCO placing on record the site related situation and requested for time extension beyond 180 days.
- 2.12. She submitted that the severe water logging related issues continued till mid of December 2022. It was possible only after 10.01.2023 to construct the mounting platform for piling machine and excavator and commence the excavation works for piling and civil foundation for erection of line towers falling in the affected areas.
- 2.13. She further submitted detailed representation to Respondent No. 1 was made on 24.01.2023 seeking for extension of time. It was further stated that on 24.01.2023 it was possible to complete 60% of tower erection works and rest of work could not be completed due to difficulties in execution of piling works and accordingly sought 3 months extension of time.
- 2.14. She submitted that upon completion of 180 days from 03.08.2022 when power supply agreement was signed with the Respondent No.1, on 30.01.2023 PGVCL issued 60 days' notice to the Petitioner under Regulation 4.33 of GERC (Electricity Supply Code and Related Matters) Regulations, 2015 to complete the work of 66 kV transmission line and bays and avail power supply within 60 days from the date of notice by 31.03.2023 failing which the

Petitioner shall be liable to pay demand charges and minimum charges for 4500 KVA power supply on deemed release basis.

- 2.15. She submitted that the Petitioner was not aware of the facts that the approved line route passing through Banni Grassland is falling under the Jurisdiction of Forest Department and NOC is required from the Forest Department for energization of 66 kV line. It was only in the third week of January 2023, the line construction activities in the Banni Grassland area were stopped by the Forest Department stating that the construction activities undertaken by the Petitioner is falling under the jurisdiction of Forest Department and instructed to seek NOC from Chief Conservator of Forest-Bhuj. The matter was reported to GETCO and in response, GETCO on 23.01.2023 has decided to seek NOC from Forest Department and to divert 9.0039 Ha. Forest land for above project under FCA scheme. Further, on 22.02.2023 GETCO applied through online portal "Parivesh" of Ministry of Forest, Environment and climate change for seeking NOC from Forest Department.
- 2.16. She further submitted that though the 66 kV line & Sub-station work completed since July-2023 the line cannot be energized and power supply could not be availed for want of NOC from the Forest Department.
- 2.17. She submitted that Ministry of Environment, Forest & Climate Change Regional Office, Gandhinagar, on 20.12.2023 granted "*In-Principle/Stage-I*" approval for non-forestry use of 9.003 of forest land in favour of GETCO for Banni Grassland Division Bhuj in forest division, District Kutch. She further submitted that after the receipt of the approval on 20.12.2023 the physical release of load was commenced on 01.02.2024.
- 2.18. She submitted that Clause 4.33 (2) of Supply Code, 2015 states that, if the applicant chooses to get the extension work done on his own, he shall get the work done on his own, within the timeframe specified in GERC (Standard of

Performance of Distribution Licensee) Regulations, 2005, as amended from time to time, failing which the licensee shall issue notice to complete work and avail power supply within 60 days from such notice and on completion of notice period, he shall be liable to pay demand charges and minimum monthly charges as applicable.

2.19. She submitted that Clause 4.37 of Supply Code, 2015 provides that the timeline for release of connection is within the period of 180 days and in case more time is required, the distribution licensee may approach the Commission for extension of time for completion of line/substation in cases where more time is required.

2.20. She submitted that when the applicant/consumer opt Option-III and undertakes the same work on behalf of licensee and faces the difficulties which is also beyond the reasonable control of the applicant, the applicant is not entitled for any relief and contrary to this, the Petitioner is liable to pay demand charges and monthly minimum charges on deemed release basis.

3. Ld. Adv. Srishti Khindaria appearing on behalf of the Respondents submitted that the present Petition relates to a dispute between a consumer and distribution licensee. Since the Petition relates to a consumer dispute within the scope of Section 42 (5), (6) and (7) of the Electricity Act, 2003 and as per the decisions of the Hon'ble Court such disputes are to be agitated before the Consumer Grievance Redressal Forum with further representation to ombudsman.

3.1. She further submitted that there are plethora of judgements which states that dispute between consumer and licensee are to be agitated before the Consumer Grievance Redressal Forum with further representation to Ombudsman and cannot be maintained by way of a petition before the Commission.

- 3.2. She further submitted that the Ombudsman has dealt with similar issues seeking extension under Option-III, as raised in the present Petition, in Case No. 72 of 2019 vide Order dated 27.11.2019 in M/s RSPL Limited Vs. Executive Engineer, PGVCL.
- 3.3. She submitted that in the Petition the Petitioner has raised issue such as (i) Site related adverse situations due to nature of soil in the line route (ii) Excessive, prolonged monsoon activities and unseasonable rainfall in the areas during relevant period (iii) Delay in getting NOC from the forest Department; which have hampered the timely completion & energization of 66 kV line & bays works and consequent delay in physical release of power supply.
- 3.4. She submitted that in the letter dated 22.06.2022 it has been provided that the work to be done by the Petitioner under Option-III and whereby it was also stated that during the execution of line, NOC from the land owner shall be obtained by the applicant. Also any way leave problem, compensation, legal dispute, statutory permissions, if any, raised from Government / GIDC, private land owner, farmer, State & National Highway, R&B Dept., Railway, PCPIR, Electrical Inspection charges, other agency etc. shall have to be resolved by the applicant at his cost.
- 3.5. She further submitted that, Sr. No. 6 of Annexure-I "*General Terms and Conditions for Deposit works*" provides that the way leave clearances for line work, crop compensations, legal issues/statutory permissions shall be arranged by the applicant at his cost. GETCO will not be responsible for delay, if any, on account of reasons mentioned above viz. Right of Way (ROW), Statutory Permission etc.
- 3.6. She further submitted that in the Draft Agreement at Sr. No. 3 of Terms and Conditions (Option-3) provides that the erection work should be carried out

as per the GETCO's specifications under the supervision of GETCO. M/s., shall be responsible to obtain the Right of Way (ROW) for laying of EHV line from the objectors and not hold GETCO responsible for delays on account of R.O.W issues and the actual charges/compensation to the objectors of ROW shall be paid by the applicant. The contractor will not have any claim against GETCO.

- 3.7. She submitted that on 04.07.2022 the Respondent No. 1, PGVCL, issued the estimate. Further, Sr. No. 17 of the said estimate provides that, as per provision of GERC regulations-2005, applicant have to complete the works within 180 days from payment of estimate.
- 3.8. She further submitted that the Petitioner was aware of the requisite timeline and the work was to be executed within 180 days. She further submitted that the agreement dated 03.08.2022 signed between the Petitioner and the Respondent No. 1 also provides that the work has to be done within the specified timeline of 180 days. The said agreement do not provide for any extension of timeline.
- 3.9. She submitted that on 28.07.2022 the Petitioner has paid the estimate and the agreement was executed on 03.08.2022 between the Petitioner and the Respondent No.1, PGVCL. The timeline of 180 days expires /completes on 28.01.2023. She further submitted that the Respondent No. 1, PGVCL, issued the notice on 28.01.2023 for completion of work by the Petitioner within 60 days and on completion of the notice period, the Petitioner would be required to pay demand charges and minimum monthly charges as per load demand.
- 3.10. She submitted that the actual physical release of connection to the Petitioner was made on 01.02.2024 after submission of the work completion report in respect to the Petitioner's scope of work.

3.11. With regard to forest clearance, she submitted that on 09.12.2022, Respondent No. 2, GETCO, had written to Deputy Conservator of Forest, Banni Grassland Division for NOC on the submission of village tikka map by approved Vendor J G Powercon on 08.12.2022. Respondent No. 2 had been informed about the requirement of NOC only in second week of December- 2022 verbally and map was submitted on 08.12.2022. Further, Forest Department vide letter dated 27.12.2022 received on 02.01.2023 intimated that the line passes through protected forest area of Dhordo and Udhamo villages and prior approval of Government of India under Forest Conservation Act 1980 was required. Further, Respondent No. 2 had registered online FCA proposal and on 23.01.2023 wrote to Deputy Conservator of Forest, Banni Grassland Division for diversion of 9.0039 HA forest area for the proposed line. Respondent No. 2 on 22.02.2023 applied through the online portal Parivesh for Proposal for diversion of the forest area. Respondent No. 2 has followed up with the Forest Department on various occasions being 26.05.2023, 04.07.2023. 10.08.2023. 25.09.2023. 19.10.2023 and 11.12.2023. She further submitted that the "In-Principle/Stage-1" approval of the Central Government was issued on 20.12.2023 subject to certain conditions. The final proposal was to be taken after receipt of compliance report from the State Government. Further, Deputy Conservator of Forest vide Letter dated 27.12.2023 had asked GETCO to pay Rs. 1,82,24,737.00 towards Net Present Value (NPV) Rs.60,33,874.00 compensatory afforestation charges- Rs. 1,21,90,863.00 for diversion of 9.0039 Ha Forest area. The payment was made by the Petitioner directly to Forest Dept. on 12.01.2024.

4. Heard the parties. We note that the present Petition has been filed by the Petitioner under Section 42, 43, 50, 86 and other applicable provisions of the Electricity Act, 2003 read with GERC (Electricity Supply Code and Related matters) Regulations, 2015, GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 and other applicable Regulations of the Commission seeking for grant of additional time for completion and

commissioning of 66kV transmission line and bays till physical release of 4500 KVA Contract demand by the Respondent No. 1, PGVCL.

5. We have considered the submissions made by Ld. Advocate appearing on behalf of the Petitioner and Ld. Advocate appearing on behalf of the Respondents at length. All the parties have made their submissions and completed their arguments in the matter. Parties are directed to file their written submissions, if any, within 4 weeks' time.
6. The next date of hearing will be intimated separately.
7. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 08/09/2025.