

**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&l 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
<b>Total</b>	<b>432.6</b>

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

<b>No.</b>	<b>Event</b>	<b>Date</b>
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

xxxxv. 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 enchased 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.
- xlviii. 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.



- 9.13. There is no specific bar in the Open Access Regulations on transfer of connectivity so long as the injection point/generating station and drawal point/consumer premises as well as capacity are same and subject to necessary approvals/permission.
- 9.14. The submission of the objector on the issue that in respect of those RE projects for which connectivity is granted prior to Order No. 01 of 2024, the commissioning timeline shall be governed by the timeline provided in earlier order of the Commission/Government Policy, is not relevant to the present case. The issue raised in regard to the past is not relevant and even otherwise is denied. The respective RE Orders have provided for timelines to be followed by the RE projects and the consequences thereof and the Petitioner has followed the same. The Objectors are seeking to divert the issue by raising irrelevant aspects, which has no relevance to the issue at hand.
- 9.15. In the Petition, it is provided for consideration of allowance of transfer only for Scheme/Developer Model and RE Park Developer provided they make the declaration at the time of the application itself. This is to ensure that the individual project developer subsequently does not claim under Scheme/Developer Model or RE Park, only in order to be allowed to transfer the connectivity. The intention is clear as 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. The Petitioner had only pointed out that the above restriction includes where the RE projects are being established through recognized Schemes with involvement/ facilitation by RE Project Developer/ RE Park Developers. Since such restriction would affect the scheme of Developer Model where project developers who had been establishing the RE projects in aggregate and thereafter transfer individual RE Projects to other entities as well as affect park developers, GETCO had proposed the amendments to address the issues related to these specific instances.

- 9.16. The aspect raised by the Petitioner in the Petition is for RE Project Developers developing the Projects for number of RE projects entities under the Scheme. The consideration of RE Project under the Scheme are 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.
- 9.17. There is no intention to include all project developer transferring to any other entity. The reason for seeking the above is only because 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. It is therefore requested that the consideration is only for these developers and RE Park Developers.
- 9.18. Further there are RE Park Developers who establish common infrastructure facilities including the dedicated line to the GETCO sub-station. RE Parks are authorized by the Government. Therefore it is necessary for the RE Parks to be addressed appropriately in the present mechanism of Detailed Procedure and Order No. 1 of 2024. It is submitted that the Objectors/Comments have confused between RE Park Developers and Project Developers under Developer Model/Scheme. These are separate.
- 9.19. Most of the objector's submissions for consideration is on the Developer Model, while some of the objectors have sought for transfer to be allowed to all entities. The Petitioner has sought for limited provision for Scheme or Developer Model/RE Park Model in the Petition and there cannot be any other consideration. Further some objectors have also pointed out that object and intent of the Orders/Procedure to ensure that there is no trading/transfer or cornering of the connectivity by the entities.

- 9.20. The salability of the project as referred by some of the objector is not a factor for consideration. The concern is that the connectivity should be sought only by only genuine applicants who apply for themselves and only exceptions being a recognized methodology of Developer Model or RE Park Model. The purpose of declaration at the time of application is also to ensure that only genuine cases of Developer Model or RE Park Model seek connectivity with intention to transfer in name of individual entities.
- 9.21. Reliance on GEDA allowing transfer permission cannot be a basis to oust the regulatory supervision of the Commission. The Commission is the Regulatory Commission for intra-state transmission and connectivity and therefore the Commission has decided not to allow the transfer of connectivity. The Petitioner is also not proposing for allowing transfer of connectivity in all cases but only restricted to Developer Model and RE Parks.
- 9.22. The proposal by some of the objectors to include a specific provision after Clause 4.5 of the connectivity procedure cannot be accepted. Such objectors are in effect seeking to remove all restrictions on transfer which is not the intention of the Commission and the not the intention of the Petition.
- 9.23. The amendments in regard to the transfer are proposed only in respect of the Detailed procedure and Wind Solar Hybrid Tariff Order dated 22.02.2024 and other restrictions or permissions or approvals etc. under other laws or contracts or procedures are not subject matter of the present Petition. The discussions in case of Developer Model/RE Park is not within scope of the present Petition and even otherwise is not relevant for the purposes of Connectivity and Open Access.
- 9.24. The Petitioner had proposed that RE Project Developer (Developer Model/Scheme) and RE Park Developers should declare at the time of the application. Some of the objectors have requested to delete the same; however this cannot be accepted. The only rationale raised is with regard to the entities

who had already obtained connectivity. There is no basis as to why it cannot be applied to future. Further there is a purpose to such declaration at the time of the connectivity as these are the only entities who may be allowed transfer of connectivity. If this is not declared, there would be issues subsequently to determine whether the same is Developer Model/RE Park or not. The intention has to be clear from the beginning and not allow the switching subsequently. Further the RE Park Developer applying for connectivity has to provide the authorization by Government and also has to declare the above. There is no reason why the developers/parks cannot be bound to disclosures made at the time of application.

- 9.25. In regard to the issue of date of applicability of the amendment and aspects of declaration to be applied to such entities if the retrospective application of amendment is allowed, the same may be decided by the Commission.
- 9.26. On the issue which has arisen is the addressing of entities who have already been granted connectivity prior to the Order No. 1 of 2024. In regard to the entities who were granted connectivity prior to the Detailed Procedure dated 07.01.2023, there was no absolute bar of transfer of connectivity at the time of grant of connectivity. However in regard to the entities who were granted connectivity under Detailed Procedure 07.01.2023 even before 22.02.2024, they were aware of the restriction in the Detailed Procedure. However the Commission may decide on the aspects of the date of application of the restrictions or amendment. The Petitioner would follow the guidelines/directions of the Commission in this matter.
- 9.27. In regard to giving effect to the amendments from 07.01.2023 for giving credit of energy injected into the grid, a question would arise as to the legality of retrospective amendment. Further even if allowed, it would not change the fact that permission for transfer of connectivity for the RE Project Developers under the Scheme/RE Park Developers can only be granted after the amendment which means in future. Therefore the question of giving any credit

to the past would not arise. This would also require changing the SEA etc. which have already been settled. Further entities who commissioned and injected despite the transfer not being allowed, cannot claim any equity.

- 9.28. Some of the objectors have sought for interim permissions which cannot be sought in the Petition filed by the GETCO. It would also not be possible to give interim permissions. However GETCO would seek urgent decision on the aspect raised in the present Petition so that the issues raised by the developers can be resolved. The Commission may consider the above issues and practical difficulties. The Petitioner would follow the guidelines/directions of the Commission in this matter.
- 9.29. Though the issue of shared utilization of the transmission capacity is not directly involved in the present case, it is submitted that the Detailed Procedure dated 07.01.2023 under FORMAT 6 provides for Model Agreement between the Lead Generator and other generators seeking inter-connection with Gujarat Intra- State transmission network at a single connection point and therefore there can be shared utilization of dedicated transmission line by individual RE Generators. Further Clause 13 of the Detailed Procedure also provides for sharing of the dedicated transmission line in case the developer is not able to fully utilize the capacity. Clause 13.2 provides for certain entities to apply at bay already allocated to Stage II grantee for sharing of dedicated line.
- 9.30. Some objectors have in their submissions sought to distinguish between Generating Station and Generating Company, which is baseless and an attempt to confuse the issue. Generating Company in an entity which owns, operates or maintains a generating station – it is not “may” own, operate or maintain as sought to be contended. The word may is not there in the definition. It is wrong that Generating Company and Generating Station are separate entities. A generating company cannot be without a generating station. Generating station is owned by a Generating Company. The generating station is not a legal entity by itself but rather the station and the legal entity is the generating

company. Therefore the claim that the developer is a generating company and the transferee is a generating station is absurd and irrational. Further, the contention of the Petitioner is not based on any such on such distinction. It is reiterated that the consideration of transfer is restricted to the Scheme for RE Project Developers and RE Park Developers and not for any other entity. Not all developers can be allowed to claim the said status.

- 9.31. It is submitted that GETCO in regard to Clause 4.5 of Detailed Procedure has only sought for inclusion of provisions for allowing transfer by RE Project Developer (under Scheme/Developer Model) and RE Park and had not made any submission in regard to the purpose of the connectivity. Therefore this is not within the scope of the Petition.
- 9.32. The reference to CTU Procedure cannot be the sole basis of consideration of any change in the present Procedure. When it has been recognized that the Central Commission Regulations are not binding on the State Commission (order dated 07.10.2016 passed by Hon'ble High Court of Gujarat in SCA No. 9138 of 2016 Para 40 and noted by the Commission in order dated 11.02.2021 Para 32.29), the Procedure is also not binding. While it may be guiding factor, this does not consider the state specific aspects. In the present case, the Orders passed by the Commission for various RE projects has differential treatment for captive and third party sale. Further the Detailed Procedure requires the declaration and requirement of PPA for third party sale. In such case, it would have to be considered whether an entity applying under one category can be allowed to switch. Therefore such aspects need detailed consideration including on the eligibility requirements etc. and cannot be decided in the present proceedings where such issue has not been raised in the Petition.
- 9.33. Further the sale to DISCOMs have priority and have different requirements and conditions. Therefore it is not possible for an entity to take connectivity based on category for sale to DISCOM and then change purpose. Therefore in any case, the sale to DISCOMs cannot be allowed to be switched. This aspect is not

within the scope of the Petition and is not related to aspects of connectivity and it cannot be considered. It may however be noted that the Timelines in the Hybrid Order No. 1 of 2024 is based on the timelines provided in the RE Policy of Government of Gujarat dated 04.10.2023 under Clause 17.4. Similarly even in Solar and Wind Tariff Orders, the timelines are based on the capacity and not voltage.

- 9.34. The Detailed Procedure under Clause 10 provides for cancellation of connectivity and encashment of bank guarantee in case the Stage II Connectivity Grantees do not complete the dedicated transmission lines etc. within timeline specified by the Commission in relevant Order/LOI/PPA. The Order provides for timelines from date of allotment of transmission capacity which in view of the Detailed Procedure is the date of grant of Stage II Connectivity. The alleged perception of objectors cannot be the basis of consideration. Further these cannot be subject matter of the present proceedings.
- 9.35. The aspect of encashment of Bank Guarantee is not within the scope of the Petition and cannot be considered. Even otherwise, the aspects of the consequences including encashment of Bank Guarantee if the Stage II Connectivity Grantee does not fulfill the requirements would have to be separately considered.
- 9.36. The aspect of revisiting supervision charges levied by GETCO is not only outside the scope of the present Petition, it is also outside the scope of the consideration of Detailed Procedure and Hybrid Tariff Order No. 1 of 2024 or aspects of Connectivity. This aspect cannot be considered.
- 9.37. The aspect of giving priority for grant of connectivity for enhance capacity as a result of repowered wind project is outside the scope of the Petition. Particularly since the issue raised is on priority of such projects which are seeking repowering, this aspect needs detailed consideration and further this

aspect has not been the basis of public notice. Therefore the said issue cannot be considered in the present proceedings.

- 9.38. The objectors have made various suggestions for priority, change in requirements, right to use, capacity, flexibility in procedure etc which are not relevant to the present Petition and are outside the scope of the Petition.
- 9.39. On the aspect of grant of time limit extension due to delay in commissioning of the project due to force majeure situation, it is submitted that the present Petition is limited in scope and such aspects outside the scope of the Petition cannot be considered particularly when they are not basis of public notice. The extension to be granted for delays in commissioning cannot be considered in the present Petition.
- 9.40. During the hearing, some of the objectors have handed over detailed list of dates and documents concerning to individual cases. The purpose of the present petition is not for deciding individual cases and therefore it is not required to deal with facts of each individual cases by the Commission.
10. We have heard the parties /objectors/ stakeholders, who were present in the public hearing and also considered the submission made objectors / stakeholders in response to public notice issued by the Petitioner. We note that the present Petition has been filed by the Petitioner seeking amendment to the Order No. 01 of 2024 for tariff framework for procurement of power by distribution licensee 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 RE sources to intra-state transmission system dated 07.01.2023.
- 10.1. The Petitioner has proposed amendment in clause 3.10 (c) of Order No. 01 of 2024 and amendment in procedure for grant of connectivity with intra-state system under clause 4.5 of the said procedure for RE projects. The petitioner has proposed to add two provisos in Order no. 01 of 2024 dated 22.02.2024



under clause 3.10 (c) and in clause 4.5 of procedure for grant of connectivity for RE projects with intra-state transmission system.

10.2. The following facts are undisputed:

1. The Petitioner GETCO had issued draft procedure for grant of connectivity to RE projects with intra-state transmission network and invited comments and suggestions on it from stakeholders. After considering comments/suggestions received from stakeholders, The Petitioner had finalized the draft procedure for grant of connectivity for RE projects.
2. The Petitioner vide letter No. letter No. ACE (R & C)/STU/51314911 dated 21.12.2022 had approached to the Commission for approval of draft procedure for grant of connectivity prepared by them.
3. The Commission had approved the “procedure for grant of connectivity to RE project developers” submitted by GETCO without any deviations or amendments in it. Thus, while granting the approval, the Commission has not directed GETCO to made any amendment/modify the procedure for grant of connectivity submitted by them. Vide letter No. GERC/TECH-II/2022/0040 dated 07.01.2023, the Commission conveyed approval on the procedure for grant of connectivity for RE Projects.
4. The Commission has issued generic tariff Order No. 01 of 2024 dated 22.02.2024 after public consultations as provided in Section 62 and 64 of the Act and decided generic tariff framework of wind-solar hybrid projects.
5. The procedure for grant of connectivity for renewable energy projects approved by the Commission on 7.01.2023 contained the provision that the connectivity cannot be transferred, as under:

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

10.3. The Petitioner has also requested for amendment in the Order No. 1 of 2024 under the clause 3.10 "Procedure for integration of the wind solar hybrid

project and battery storage to the grid", which 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."*

- 10.4. Prior to the procedure for connectivity of renewable energy projects prepared by GETCO and get approved from the Commission on 07.01.2023, there was no provision like stipulated in clause 4.5 of the said procedure in which the GETCO has proposed amendments through present Petition.
- 10.5. Prior to 07.01.2023, i.e. procedure for grant of connectivity for RE projects submitted by GETCO and approved by the Commission, there was no explicit bar for transfer by connectivity holder(s) of the RE project and they were eligible for transfer of connectivity and even as per the development procedure of GEDA under Government of Gujarat's relevant RE Policies, there is no bar for such transfer permission. Further, there was no bar for transfer of connectivity either in the Regulations or Orders of the Commission. Thus, prior to 07.01.2023, the RE project developer were eligible to apply for connectivity for GETCO Network, which were approved by GETCO as per the procedure framed by them and the same is transferable to other entities based on grant of transfer permission as per the provisions procedure laid down by GEDA under the relevant Govt Policies.

- 10.6. After 7.01.2023, i.e. date of procedure for grant of connectivity approved by the Commission, as per Clause 4.5 of the said connectivity procedure, the connectivity once granted, cannot be transferred to other entity.
- 10.7. There are various project developers who have applied to GETCO prior to 7.01.2023 for grant of connectivity of RE projects and GETCO has applied the prevailing procedure and granted connectivity to such project developers. There are various project developers who have applied to GETCO for grant of connectivity after 07.01.2023 i.e. date of procedure for grant of connectivity to RE projects and such projects have been granted connectivity by GETCO.
- 10.8. It is submitted that there are various RE projects which have been granted connectivity by GETCO prior to 07.01.2023 on fulfilment of requisite conditions. Such developers have started their activities for construction of projects. The list of events submitted by one of the objectors to give understanding of the procedure for getting approval and project execution related activities carried out by project developer before and after 07.01.2023, are reproduced as under:

No.	Particulars
1	Application for Grant of Connectivity under Procedure dated 14.02.2017
2	GETCO reply to the letter dated 13.07.2021
3	Payment of Load flow study charges
4	Approval granted in accordance with the System Study
5	Meeting held for feasibility and finalisation of 02 Nos of 66kV Feeder bay location between representatives from M/S Bajrang Wind Park (Kutch) and GETCO 220 kV.
6	Bank Guarantee Submission to GETCO
7	Date for Submission of feasibility along with the estimate of feeder bays for evacuation of 120 MW

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

10.9. The GEDA which is nodal agency for RE projects as per Govt Policy and Regulations as well as Order of the Commission, would also require to carryout various facilitation activities in relation to development of RE Projects in the State prior to commissioning of such projects, which are stated below:

- a. Registration of Projects
- b. Accreditation and recommending Renewable Energy Projects for registering with the Central Agency under REC mechanism
- c. Certifying the commissioning of Renewable Energy Projects

- d. Submit a monthly progress report of the activities mentioned above to the GUVNL/E&PD.
- e. Any other functions assigned.

10.10. The GEDA has carried out the aforesaid activities for grant of development permission and transfer permission to RE projects which had obtained connectivity prior to 7.01.2023 i.e. date of grant of connectivity procedure approved by the Commission.

10.11. GEDA is also required to act in accordance with the provisions of the procedures for grant of connectivity approved by the Commission on 07.01.2023 read with Government RE Policy and Tariff Orders, Regulations of the Commission prevailing on or after 7.01.2023 and make it applicable to the RE projects which have obtained the connectivity on or after 7.01.2023.

10.12. The Petitioner has submitted that after approval of connectivity procedure dated 07.01.2023 by the Commission, State Govt notified RE Policy 2023. Further, the Commission issued Order No. 01 of 2024 dated 22.02.2024 wherein provision is contained at the para 3.10 (c) with regard to non-transfer of connectivity and transmission/wheeling agreement be carried out by the same person in whose name connectivity was granted.

10.13. The issue emerged in the present case is with regard to non-transfer of connectivity as provided in connectivity procedure dated 07.01.2024 read with Commission Order No. 01 of 2024 dated 22.02.2024. The said issue is affecting to RE park developers/RE project developers who are developing the park / RE capacity in aggregate as provided in GoG RE Policy wherein the development of project is allowed to be undertaken by developer entity with requisite infrastructure in terms of arranging project land, internal road, pooling sub-station etc. and thereafter the project is transferred to individual entities for own and operate the transferred project. The Petitioner has submitted that due provisions related to non-transfer of connectivity and

transmission and wheeling agreement needs to execute by the same entity who has obtained connectivity, is affecting the RE project developers to set up the RE plant under the development model, get it transferred, commissioned and transmit/wheel the energy generated from it to place of consumption for third party or self- consumption or sale to licensee,

10.14. We note that the issue stated in the Petition emerged due to different interpretation by the GETCO and GEDA as well as some of the aspects which are overlapping as a part of the provisions of policy, regulations and orders of the Commission.

10.15. We note that there are following types project developers who desire to set up the RE plant under the GoG Policy, Commission's Orders and Regulations and procedures for connectivity approved by the Commission.

1. The projects which have obtained connectivity prior to 7.01.2023 under the applicable Govt RE Policies and Order of the Commission applicable prior to 07.01.2023 i.e. obtained connectivity prior to GoG RE Policy 2023 and Order No. 01 of 2024 dated 22.02.2024.
2. The Projects which have obtained connectivity after 07.01.2023, i.e. under the GoG Policy 2023 and/or earlier policy and commission's orders as applicable on or after 7.01.2023.

10.16. It is necessary to give effect to the provisions of the policy framed by the Government readwith Commission Order, Regulations and procedure for connectivity prevailing at relevant time when it was applied to the RE project developers by the concerned entity i.e. GEDA, GETCO and Discoms. We note that while applying the provisions of above policy framework, order of the Commission, regulations, the interpretations made by above entities has affected the ongoing RE projects of the persons / developers.

10.17. Now we deal with the issue raised by some of the objectors that the present Petition is not admissible and maintainable on a ground that the Order No. 01

of 2024 dated 22.02.2024 passed by the Commission is a tariff order wherein the Petitioner has prayed for amendment in the Order. The Petitioner's prayer is review of aforesaid order which is not fulfill the relevant criteria of review of order as provided under Regulation 72 of GERC (Conduct of Business) Regulations, 2004. Further, Petitioner has also prayed for amendment in procedure for grant of connectivity approved by the Commission which requires to follow the procedure of amendment i.e. inviting comments and suggestion on it etc.

10.18. We note that the Commission passed order No. 1 of 2024 dated 22.02.2024 under Sections 3(1) 61(h), 62 (1)(a) and 86 (1)(b) and (e) of the Act read with GovtRE Policy 2023 and amendments made in it. The said order was passed by the Commission after publishing the Discussion Paper and inviting comments and suggestions from the stakeholders and considering the objections and suggestions received from various stakeholders.

10.19. The Commission on 07.01.2023 has also approved the procedure for grant of connectivity under GERC (Open Access) Regulations, 2011 to RE projects as prepared and submitted by GETCO.

The relevant portion of Sec.86 of the Act, is reproduced below:

*"Section 86. (Functions of State Commission): --- (1) The State Commission shall discharge the following functions, namely: -*

- (a) *determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:*  
*Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;*
- (b) *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;*

(c) *facilitate intra-State transmission and wheeling of electricity;*

.....

(e) *promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;”*

10.20. Section 86 states functions of the State Commission. Section 86(1)(a) provides for determination of tariff of generation, transmission, supply and wheeling of electricity and also for the whole sale, bulk or retail tariff by the Commission. The proviso of said section provides that the Commission shall determine the wheeling charges and surcharges payable by the consumers in case of procurement of power under open access under Section 42 of the Act.

10.21. Section 86(1)(b) states regarding regulating the procurement process of the distribution licensee consisting of quantum of power, its price and agreement etc., by the Commission.

10.22. Section 86(1)(c) states that the Commission shall provide facilitation of intra-state transmission and wheeling of electricity on transmission/distribution network through open access.

10.23. Section 86(1)(e) states about the promotion of co-generation and generation of electricity from renewable energy sources by way of providing connectivity with grid, sale of electricity to any person and specify the procurement of RE as a part of total consumption by the consumer situated in the distribution licensee area.

10.24. We note that in the Electricity Act 2003 there are two routes for tariff determination- (1) under Sections 61, 62 and 64 of the Act wherein the Commission determines the tariff of generating company, distribution licensee, transmission company and whole sale and retail tariff, and (2) under Section 63 of the Act wherein the tariff discovered under the Competitive



Bidding Process carried out by distribution licensee under the competitive bidding guidelines issued by the Central Government are adopted by the Commission. Thus, the aforesaid provisions empower the Commission to determine the tariff under the Act.

10.25. The Order No. 01 of 2024 dated 22.02.2024 issued by the Commission on tariff framework for procurement of power by the Distribution Licensees and others from Wind-Solar Hybrid Energy Projects and other commercial issues, which is a Tariff Order issued/passed under Electricity Act, 2003. The said tariff order consists of other commercial terms and conditions like transmission, wheeling of energy, its charges and losses, Cross Subsidy Surcharge, Additional Surcharge, security mechanism, energy accounting, project set up under REC, non-REC mode, Energy Banking Facility etc. which have implication on tariff. This is not the order passed in adjudication of disputes between parties which are final and binding and can be modified only in Appeal or Review.

10.26. Further the Petitioner has contended that the amendment of Tariff Order is recognized in Section 62 (4) and 64 (6) of the Act. Therefore, the same are necessary to be referred and are reproduced below and dealt by the Commission:

*62. (Determination of tariff): .....*

*(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.*

In the aforesaid provision, it is provided that the tariff or its part may not ordinarily be amended more frequently than once in any financial year except in respect of fuel surcharge as per the formula specified by the Commission.

.....

64.(Procedure for tariff order): .....

*(6) A tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order.*

This section provides that the tariff order shall remain in force till the period specified in it, until such order is amended or revoked.

10.27. We further note that the Hon'ble Supreme Court in UP Power Corporation Limited v. National Thermal Power Corporation Limited [(2009) 6 SCC 235] upheld as under:

*"21. Power and/or jurisdiction of the Central Commission to frame tariff and/or carry out revision thereof is not in dispute. It is in fact well settled that the Central Commission has the exclusive jurisdiction to frame not only tariff but also any amendment, alterations and additions in regard thereto.*

.....

*35. Revision of a tariff must be distinguished from review of a tariff order. Whereas Regulation 92 of the 1999 Regulations provides for revision of tariff, Regulations 110 to 117 also provide for extensive power to be exercised by the Central Commission in regard to the proceedings before it.*

.....

*40. Regulations 92 and 94, in our opinion, do not restrict the power of the Central Commission to make additions or alterations in the tariff. Making of a tariff is a continuous process. It can be amended or altered by the Central Commission, if any occasion arises therefor. The said power can be exercised not only on an application filed by the generating companies but by the Commission also on its own motion.*

.....

*46. The concept of regulatory jurisdiction provides for revisit of the tariff. It is now a well-settled principle of law that a subordinate legislation validly made becomes a part of the Act and should be read as such."*

In the aforesaid decision Hon'ble Supreme Court held that the Commission has power to amend the tariff order as the tariff determination is a continuous exercise.

10.28. We note that the Hon'ble Supreme Court in Gujarat Urja Vikas Nigam Limited v/s. Tarini Infrastructure Limited and others [(2016) 8 SCC 743] has considering Section 86(1)(b) and Section 64 recognised that there must be flexibility and there may be a review of tariff. The Hon'ble Supreme Court in Gujarat Urja Vikas Nigam Limited v. Solar Semiconductor Power Company (India) Private Limited and Another [(2017) 16 SCC 498] relying on the above held that the Commission has power under Section 62 (4) and Section 64 (6) of the Act to amend the tariff order. The relevant para of the said order is reproduced below:

*“31. Having referred to the above decisions, we shall now make an independent endeavor to analyse the present case in the context of factual matrix and the relevant statutory provisions. An amendment to tariff by the Regulatory Commission is permitted under Section 62(4) read with Section 64(6) of the Act. Section 86(1)(a) clothes the Commission with the power to determine the tariff and under Section 86(1)(b), it is for the Commission to regulate the price at which electricity is to be procured from the generating companies. Section 86(1)(e) deals with promoting co-generation and generation of electricity from renewable energy. Therefore, there cannot be any quarrel with regard to the power conferred on the Commission with regard to fixation of tariff for the electricity procured from the generating companies or amendment thereof in the given circumstances.”*

10.29. We further note that Hon'ble APTEL in case of Balasore Alloys Ltd. v/s. Odisha Electricity Regulatory Commission, [2014 SCC Online APTEL 180], has upheld that the Commission has power to amend the tariff under Section 62(4) of the Act. The relevant portion of the said order is reproduced below:

*“27. Section 62(4) of the Electricity Act, 2003 provides that no tariff or part of any tariff may ordinarily be amended,*

*more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified. In the present case, the State Commission has amended the tariff once during the FY 2012- 13 by the impugned order dated 23.8.2012. The State Commission has also given reasons for the amendment.*

*28. This Tribunal in O.P. No. 1 of 2011 dated 11.11.2011 has also held that the State Commission has power to initiate tariff proceeding suo-motu.*

*29. We feel that the impugned order is not a review order but an order to amend the tariff during the course of the FY 2012-13. The State Commission has not amended the tariff from the effective date of the original order dated 23.3.2012 i.e. 1.4.2012 but has made the amended tariff applicable subsequently w.e. from 1.7.2012. Thus, as per the impugned order, the 'Take or Pay' Tariff as decided by the original order dated 23.3.2012 would remain in vogue from 1.4.2012 to 30.6.2012.*

*30. In view of above, we hold that the State Commission exercising its power to amend a part of tariff in a suo motu proceeding in the present case is perfectly legal.”*

10.30. We also note that necessary procedure with regard for issuing amendment in tariff order has been duly followed by the Commission by directing the Petitioner to issue public notice and objections/comments have been invited on the Petition and thereafter public hearing was held. During the public hearing, objectors, respondents and the petitioner were heard by the Commission. Thus, the Commission has followed the procedure and therefore the Commission can pass the amendments to the Order.

10.31. We also note that the Order No. 01 of 2024 dated 22.02.2024 had been passed by the Commission after consideration of procedure for grant of connectivity to RE projects prepared by GETCO and get it approved from the Commission on 7.01.2023 and provisions of Gujarat RE Policy 2023. In the said Order, the Commission had considered the specific aspects of connectivity of RE projects

and the same was changed as per connectivity procedure prepared by GETCO and approved by the Commission. The Commission had considered various provisions of Gujarat RE Policy while deciding the tariff framework under Order No 01 of 2024 for wind-solar hybrid power projects. The Gujarat RE Policy 2023 is also policy in public interest.

10.32. We also note that, when the Order No. 01 of 2024 dated 22.02.2024 was passed by the Commission with consideration of Gujarat Renewable Energy Policies issued by Government of Gujarat, grant of connectivity procedure of RE projects prepared by GETCO and approved by the Commission. There is no bar for the Commission to consider the existing provision of connectivity as provided in RE Policy and incorporate the same in tariff order.

10.33. The jurisdiction or power of the Government to issue Policy or the Commission to issue orders cannot be barred. Therefore, the issuance of Policy by Government or issuance of Orders by Regulatory Commission on Tariff framework and commercial terms for wheeling of power cannot be barred.

10.34. We note that the Petition has been filed under Section 86 which includes Section 86(1)(a) and 86(1)(b) related to tariff, 86(1)(e) related to promotion of renewable energy as well as “other applicable provisions of the Electricity Act” which would include Section 62 and 64 of the Act.

10.35. Some of the objectors have contended that Government Policy is not binding on the Commission, which is a statutory body constituted under the Act. In support of above submission, the respondent and objectors have relied upon Judgements of Hon’ble Tribunal in the following cases:

- (i) Maruti Suzuki Vs. HERC in Appeal No. 103 of 2012 reported in 2015 (SCC) APTEL 127 and
- (ii) Polyplex Corporation Ltd. Vs. HERC in Appeal No. 41, 42 and 43 of 2010.

10.36. In the aforesaid decisions, the Hon’ble APTEL has held that the Policy notified

by the State Government is not binding to the Commission. It is only a guiding factor on the Commission while determining the tariff or related matters. The Commission is a statutory body constituted under the Act to carry out the functions assigned under the Act in accordance with law. The provisions of the National Electricity Policy and the Tariff Policy notified under Section 3 of the Act, though statutory provisions, are not binding to the Commission and they work as a guiding factor.

- 10.37. It is also necessary to refer to the provisions of the Electricity Act, 2003 which empowers the Commission to frame the regulations which are subordinate legislation. Electricity Rules 2005 notified under the Act provides that prior to notifying the Regulations, Rules etc. it is necessary to carryout pre-publication. Section 181 of the Act provides power to the Commission to frame the regulations. Further, Section 182 provides that the regulations notified by the Commission are required to be put before the State Legislature for approval. Once the Legislature approves the regulations and they are notified, the regulations come into force as subordinate legislation and become applicable and enforceable.
- 10.38. The power to make the regulations provided to the Commission also consists of power to amend, alter or modify the regulations by following the process specified in the Act read with Rules made under it.
- 10.39. The objectors have contended that there is no criteria for change/amendment in the Order No. 1 of 2024 dated 22.02.2024 which sought to be amended in the present proceedings. There is no justification given by the Petitioner. We note that the Petitioner has specifically mentioned in the Petition about particular provisions which needs to add in the procedure for grant of connectivity approved by the Commission and also incorporate as provisos in Order No. 01 of 2024 dated 22.02.2024, as there is error with regard to non-consideration of the provisions of GoG Policy as well as Orders and Regulations of the Commission so as the provisions of Policies, Regulations, Orders,

procedures be given effect by way of amendments in the Order No. 1 of 2024 dated 22.02.2024 and Procedure for Grant of connectivity dated 07.01.2023. The Petitioner has mentioned salient features of the prevailing Policy and the Orders and Regulations of the Commission prior to 7.01.2023 as well as Order No. 1 of 2024 dated 22.02.2024 and submitted that various changes/amendments in order No. 01 of 2024 dated 22.02.2024 and procedure for grant of connectivity to RE projects dated 7.01.2023 needs to be carried out with consideration of prevailing policy, Regulations, Orders and procedure framed by GEDA under aforesaid policy, regulations and orders. Hence, the contentions of the Objectors are not correct and the same are rejected.

- 10.40. Considering the above, we are of view that the Commission has power to amend the tariff order under section 62(4) and 64 (6) of the Act, and the regulations notified by it after following the due process of law. The present petition filed by the Petitioner for amendment in the tariff Order No. 1 of 2024 dated 22.02.2024 and procedure for grant of connectivity to RE projects dated 7.01.2023 is permissible under the provisions of the Electricity Act, 2003 after due consideration on merit of the issues and after following due process of law.
- 10.41. In the present case, the process of issuance of the public notice and inviting comments and suggestions and hearing of the objectors/ stakeholders is already done. Therefore, the process of amendment of tariff order as well as amendment in procedure for grant of connectivity to RE projects dated 7.01.2023 is already done by the Commission. Hence, the contention of the objectors that present petition is not maintainable is not acceptable.
- 10.42. We also note that some of the objectors/stakeholders have stated that the Petitioner has not joined the original objectors/stakeholders who have submitted their suggestions/objections while deciding Order No. 01 of 2024 dated 22.02.2024 by the Commission. Thus, the present Petition is not admissible and maintainable on the ground of non-joinder of original parties. The Commission in the earlier review the Petition filed by TPL & GETCO has

directed to the Petitioner to join original objectors/ stakeholders as party and given opportunity to file their reply on such Petition. We note that the present Petition filed by the Petitioner seeking amendment in the Order No. 01 of 2024 dated 22.02.2024 in clause 3.10 (c) for tariff framework for win-solar hybrid power projects by adding two proviso in aforesaid clause. The Petitioner has also prayed to add two provisos in clause 4.5 of procedure for grant of connectivity to projects based on renewable energy sources to intra-state transmission systems. We also note that the Commission has directed in its daily Order dated 09.08.2024 to the Petitioner to issue public notice in two daily Gujarati newspapers and one English newspaper and invite comments and suggestions from the objectors/stakeholders on the Petition on affidavit within 21 days from the date of issue of public notice. The Commission has also decided and directed the staff of the Commission to upload the Petition on Commission website and invite comments/suggestion from stakeholders. We note 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, wherein it is specifically mentioned that the present Petition filed by the Petitioner seeking amendment in aforesaid Order No. 1 of 2024 dated 22.02.2024 i.e. tariff framework for wind- solar, hybrid power projects and procedure for grant of connectivity dated 7.01.2023 approved by the Commission, wherein the Petitioner has seek amendment. The aforesaid public notice issued by the petitioner is covering participation from larger stakeholders which also includes the parties/objectors who have filed their suggestions/objections during the procedure for determining tariff framework in the Order No 01 of 2024 dated 22.02.2024 as well as the parties/ objectors who have submitted their objections on draft procedure for connectivity prescribed by the Petitioner on which comments and suggestions were invited by them. The Petitioner has also uploaded the Petition with relevant documents on website. The Commission has also uploaded the said Petition on its website and invited comments and suggestions from the stakeholders. Thus, it is incorrect to say that the original objectors/stakeholders need to join as a



party to the present Petition. In fact, an opportunity given to more persons to file their objections/suggestions if any, on the subject matter of the Petition without limiting to original objectors/stakeholders. Considering the above, we are of the view that the aforesaid objections of the stakeholders is not acceptable and the same is rejected.

10.43. Some of the objectors have raised the objections that as per the provisions of Electricity Act, 2003, rules and regulations framed under it by Government and Commission and CEA, only generating company, licensee and consumers are recognized for generation of electricity, supply of electricity, transmission of electricity, trading of electricity, consumption of electricity. Thus, any other person or developer is not recognized in Act, Rules or Regulations, therefore, the proposed amendment in tariff order passed by the Commission and amendment in procedure for grant of connectivity of RE projects as proposed by the Petitioner is in contravention of principle Act, Rules and Regulations. Further, it is also stated that the connectivity is permissible only to consumer, licensee or generating company with considering of provision of Section 39 and 42 of the Act. On this ground the present petition is not admissible and maintainable is concerned, we note that the Petitioner has proposed to add two provisos in Order No. 01 of 2024 dated 22.02.2024 under clause 3.10 (c) and in the procedure for grant of connectivity to projects based on RE sources under clause 4.5 of the said procedure. We note that the procedure for connectivity consists of applicability clause 2.1 which reads as under:

*"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."*

Thus, RE park developer is recognized in the aforesaid procedure on whom the

grant of connectivity prepared by GETCO and approved by the Commission is applicable. Further, the Government of Gujarat has issued the RE Policy 2023 which recognizes the RE Project Developer and RE park developer who will carryout different works related to development of RE projects including common infrastructure works to set up RE plant in such park and utilize the common resources in optimal manner. The relevant portion in GoG Policy issued vide G.R. No. REN/e-file/20/2023/0476/B1 dated 04.10.2023, read as under:

*“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.”*

- 10.44. In regard to eligible entities seeking connectivity as provided under Open Access Regulations, 2011, it needs to be noted 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 case of the Developer Model also, the developer is the generating company who is setting up the generating station and on sale of capacity to another entity, the said entity is the generating company which owns the generating station.
- 10.45. We also note the submission of the Petitioner that 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. 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. We also note that the Section 86 (1) (e) of the Act states for promotion of RE based projects and consumption. The central commission has also recognized RE park developers for promotion of RE projects.

- 10.46. Considering the above and in view of larger public interest and to uphold the objective under the Electricity Act, 2003, the objections of stakeholders that the connectivity is granted only to generator, licensee or consumers and not RE park developer/RE Project developer is not correct. Hence, the aforesaid objections of the stakeholders are not accepted.
- 10.47. Now we deal with the issues with regard to aspects raised by the some of the objectors that they had obtained connectivity prior to 07.01.2023 and set up RE projects either on their name or with consideration that grant of transfer permission and transfer of connectivity is permissible under prevailing norms as applicable as on date of grant of connectivity and sought transfer permission and transfer of connectivity prior to or after 07.01.2023 from GETCO / GEDA. After grant of connectivity prior to 7.01.2023, different activities have been carried out for development of RE projects and applied for approvals by such entity/project developer to GETCO / GEDA and their projects are at different stage of commissioning /injection of energy into the grid based on the connectivity which were granted by the Petitioner GETCO prior to 07.01.2023. They have taken various step 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, evacuation line 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 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.

10.48. It is 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 contended by the objectors that they have made huge investment in RE projects and also the plants are already on commissioning stage and in some cases the projects have been witnessed for commissioning by the GEDA/GETCO, however, the commissioning of such project is restricted due to Order No. 01 of 2024 dated 22.02.2024 by the GEDA / GETCO. The objectors have also stated that as they have developed the RE projects based on connectivity granted prior to 07.01.2023 with consideration that the transfer permission and transfer of connectivity is permissible under the extant norms / policy as well as order of the Commission as well as procedure laid down by GEDA/GETCO at relevant time. Therefore, the projects which have been executed or ready for commission under aforesaid situation be governed by the earlier Government Policy as well as the procedure laid down by GEDA and also followed by GETCO at relevant time when original connectivity was granted. The objectors have also stated that other similarly placed RE Projects with aggregate capacity of about 432.36 MW have been granted transfer permission as well as allowed to commission i.e., projects granted connectivity prior to the connectivity procedure 07.01.2023 were subsequently granted transfer permission as well as transfer of connectivity and also allowed to

commission the Project even after the Connectivity Procedure dated 07.01.2023. The restriction on transfer of connectivity as well as not allowing commissioning of RE project and inject energy into the grid which is developed based on the connectivity norms applicable prior to 07.01.2023 is against the provision of Act, which provides for promotion of renewable energy projects and generation. Further, it amounts to discriminatory treatment by GETCO/GEDA which is required to be corrected by the Commission by allowing such projects to commission having aggregate capacity of around 275 MW as stated by the Petitioner GETCO in its Petition.

10.49. We note that the Petitioner in its additional submission dated 17.09.2024 stated as under:

*“..... The above amendment once introduced would also apply to the entities who were granted connectivity prior to the Detailed Procedure as well as after the Detailed Procedure and they may be allowed transfer of connectivity. However, it may be noted that the requirement of the declaration of RE project developer and RE park developer at the time of application as referred to in the proposed amendment can only apply to entities who apply in future since the entities who had already applied and granted connectivity, there was no provision for such declaration at the time of application. In particular for the entities who were granted connectivity prior to the Detailed Procedure dated 07.01.2023, there was no bar for transfer of connectivity and such entities had already been granted connectivity and taken steps on such basis. Therefore the entities who were already granted connectivity, would have to be treated separately and it may be considered to allow transfer of such entities.”*

10.50. We note that the Government of Gujarat had framed Policies on renewable energy sources from time to time for promotion of renewable energy generation and consumption in the State and granted various benefits/incentives under the policy. The Commission has also passed generic Tariff Orders on renewable energy sources i.e. Wind, Solar, Wind-Solar Hybrid

etc. from time to time to provide regulatory support and certainty on the aforesaid subject for promotion of RE generation and consumption in the State. The GEDA is nominated as nodal agency for undertaking various activities concerning to development of RE projects in the State. The GEDA has been following executive procedure formulated under the relevant Govt Policies for promotion of RE projects in the State which include the registration of such projects, grant of development permission and transfer permission for RE projects etc. The GETCO had granted the connectivity to RE projects and also allowed for transfer of connectivity granted prior to 7.01.2023 i.e. date of connectivity procedure, to another person. Thus, as per the norms applicable prior to 7.01.2023, the connectivity holding by a person was permissible to be transferred to another person for execution of RE projects and transmit/wheel energy generated from such RE projects developed by transferee person, to the place of consumption as case may be.

10.51. We also note that the GETCO has prepared connectivity procedure of RE projects and made various provisions with regard to grant of connectivity and after following due process of law approached to the Commission for approval and the same was approved by the Commission on 07.01.2023. The said procedure restricted transfer of connectivity.

10.52. We also note that there may be following types of projects prevailing as on the date of aforesaid procedures approved by the Commission:

1. The projects which have applied for connectivity prior to above procedure for grant of connectivity and they have also executed projects on or before 07.01.2023.
2. The projects which have applied for connectivity prior to 07.01.2023 and connectivity has been granted by the GETCO to such projects/person prior to 07.01.2023 and they have also started various activities for execution/implementation of projects. However, such projects are not completed by 07.01.2023 but they are executed / completed after 07.01.2023.

- 10.53. Here it is also necessary to note that the Commission has passed Order No. 01 of 2024 dated 22.02.2024 wherein the Commission has decided tariff framework of wind-solar hybrid projects. The aforesaid Order also consist of the provisions that the connectivity is not transferable, in line with the stipulation provided in GETCO procedure for grant of connectivity which was approved by the Commission on 07.01.2023.
- 10.54. The Petitioner has in the present case submitted that due to aforesaid provisions there are various RE projects which are stranded at the different stage of commissioning, for which aforesaid connectivity procedures and provisions of Order No. 01 of 2024 dated needs to be amended so as to allow commissioning of such projects which are being set up based on the connectivity granted prior to 07.01.2023 wherein there was no explicit bar for transfer of connectivity under extant norms / policy. On referring to submission of stakeholders and GETCO, the Commission observed that the projects which have been granted connectivity prior to 07.01.2023 by GETCO, could have been at different stage as on Order No. 01 of 2024 dated 22.02.2024. The same are stated below:
- 10.55. The projects which have carried out project execution related various activities prior to 7.01.2023 and after 7.01.2023 and such projects have been allowed to commission even after 7.01.2023 but prior to Order No. 01 of 2024 dated 22.02.2024, wherein the registration of the project, development permission and transfer permission etc granted by GEDA and transfer of connectivity also granted by GETCO.
- 10.56. The projects have carried out project execution related various activities prior to 7.01.2023 and after 7.01.2023 and such projects have not been allowed for commissioning, pursuant to Order No. 01 of 2024, i.e. 22.02.2024, wherein some of the permissions granted by GEDA/GETCO prior to 22.02.2024 but such projects are not permitted for transfer permission /transfer of connectivity / open access/ commissioning, as the case may be.

- 10.57. These projects have carried out various activities prior to 7.01.2023 and after 7.01.2023 and such projects have been ready for commissioning or they have applied for commissioning activities and sought various permissions from GEDA/GETCO/Discoms on or after Order No. 01 of 2024 dated 22.02.2024, wherein the GEDA/GETCO/Discoms have either witness the commissioning but not issued commissioning certificate (as per objector submissions). There are some of the projects which are ready for commissioning as on Order No. 01 of 2024 dated 22.02.2024 and they had applied to GEDA/GETCO/Discoms for carryout commissioning activities on or after 22.02.2024 but GEDA/GETCO/Discoms have neither witness the commissioning nor issued commissioning certificate, in some of cases GETCO/ GEDA has denied transfer permission, denied signing of transmission agreement / open access etc. after Order No. 01 Of 2024 dated 22.02.024.
- 10.58. Considering the above, we are of the view that it is necessary to provide regulatory certainty and clarity for above stated RE projects to commission and generate renewable energy and transmit / wheel such energy at the place of consumption. It is to be noted that GETCO has granted permission in name of transferee entity to carryout various activities for development of projects for the cases for which connectivity is granted prior to 7.01.2023 and entities have proceeded for execution of projects and made ready for commissioning with huge investment based on the norms prevailing prior to 07.01.2023 i.e. with consideration that development permission, transfer permission, and transfer of connectivity is permission under the prevailing norms as being applied by GETCO / DISCOMs/ GEDA.
- 10.59. We also note the facts stated by some of the stakeholders/objectors that GETCO and GEDA have differently interpreted the provisions of non-transferability of connectivity provided in procedure for connectivity of RE projects approved by the Commission on 07.01.2023 for similarly placed other RE projects who have been granted connectivity prior to 07.01.2023 but such projects are allowed for commissioning even after 07.01.2023 but prior to Order dated 22.02.2024, whereas the commissioning of about 275 MW RE



project capacity as being referred to in present petition, has been denied by GETCO/GEDA.

- 10.60. We note that GETCO has in its submission dated 17.9.2023 also requested that such RE projects i.e. the projects which have been started various activity based on connectivity granted prior to 7.01.2023 and executed projects be treated at par and they shall be permitted for transfer permission, transfer of connectivity, grant of open access and commissioning etc. for transmitting/wheeling of power from generating stations to consumption place.
- 10.61. Considering the above, we decide and clarify that the RE projects which have been implemented based on connectivity granted by GETCO prior to 07.01.2023 i.e. prior to date of connectivity procedure approved by the Commission, as stated above, were eligible for grant of transfer permission, transfer of connectivity, grant of open access, signing of transmission / wheeling agreement and commissioning of projects for transmitting/wheeling of energy from generating stations to consumption place and therefore transferee entities of such projects are allowed for the same, if already not permitted by GETCO/ GEDA / DISCOMs.
- 10.62. Now we deal with the issue with regard to addition of following proviso under clause 3.10 (c) of Order No. 01 of 2024 dated 22.02.2024 and clause 4.5 of grant of connectivity to projects based on RE sources to intra-state transmission system dated 7.01.2023 approved by the Commission, as under, as sought by the Petitioner:

*“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”*

10.63. The rational given by the Petitioner for addition of aforesaid proviso is necessary to refer. It is also necessary to refer the relevant provisions of the Renewable Energy Policy 2023, which is reproduced below:

*"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 parts) 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)."*

10.64. Thus the Policy recognizes the Project developers / RE project developers who carry out various activities related to set up of RE projects.

10.65. It is also necessary to refer provisions related to RE Parks provided in the Gujarat RE Policy, 2023, which read as under:

## *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).*

*12.2 Park Size: The minimum capacity of RE park shall be 50 MW, and the maximum park capacity shall be in accordance with the guidelines or schemes of MNRE as issued from time to time.*

*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.*

10.66. The aforesaid provision envisages for development of RE parks by developer with intent to minimize the cost of common infrastructure and optimize the evacuation infrastructure to fulfil the objectives of Policy, for promotion of RE projects which include solar parks, wind parks, and hybrid parks (i.e., solar-wind). The RE park developers be facilitator for the person/industries/consumers who may not having expertise to execute the projects be able to set up their RE projects with economically viable and technically feasible to own and operate the projects to either meet their requirement or sale such energy to other entities. It will also helpful in optimum utilisation of resources. Hence, we are of the view that the development of RE park is beneficial to State. We also note that the request of GETCO that the enabling provisions under the clause 4.5 of the connectivity procedures dated 07.01.2023 approved by the Commission and in the Order No. 01 of 2024 dated 22.02.2024 under Clause 3.10 (c) be incorporated, seems valid, legal and justified.

10.67. Hence, we decide to add following provisos under clause 3.10 (c) of Order no. 01 of 2024 dated 22.02.2024

*“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”*

10.68. We also decide and allow to add following proviso under clause 4.5 of “grant of connectivity to projects based on RE sources to intra-state transmission system” dated 7.01.2023:

*“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 ”*

*“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”*

10.69. We note that the definition of “Project Developer / RE Project Developer” and description of “RE Parks” as provided in the Gujarat RE Policy, 2003 is just and adequate for the purpose imparting more clarity to above provisos. Therefore, we decide that for the purpose of above provisos:

*“RE Park Developer” shall mean the entity that develops RE park which include solar parks, wind parks, and hybrid parks (i.e., solar-wind), and the description of RE parks shall be governed as under:*

*Park Size: The minimum capacity of RE park shall be 50 MW, and the maximum park capacity shall be in accordance with the guidelines or schemes of MNRE as issued from time to time.*

*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.*

Further, for the purpose of above provisos:

*“Project Developer / RE Project Developer” shall mean “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 parts) 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)."*

10.70. We also note that the GETCO has in its additional submission dated 17.09.2024 submitted that the requirement of declaration of RE project developer and RE park developer at the time of application as referred to above amendment can only applied to entities who apply in future since the entities who had already apply and granted connectivity, there was no provision for such declaration at the time of connectivity application, seems correct.

10.71. We note that some of the objectors have made submission against the proposed provision that the entity shall require to declare the intention at the time of connectivity application if they are applying as RE park developer or RE developer (aggregate) and only such entity shall be allowed for transfer. They have submitted that it is not feasible to declare such intention at the time of connectivity application, instead of this, the entity may be allowed to declare at the time of seeking open access whether they are transmitting/wheeling electricity for captive use and/or sale to third party, is concerned, we note the submission of the Petitioner GETCO that the objective for declaring intention at the time of connectivity application is to ensure that only genuine cases of developer model or RE park model be granted for transfer of permission so as to address the concerns that the connectivity should be sought only by genuine applicants who apply for themselves and only exception being a recognized methodology of developer model or RE park model. It seems force in submission of GETCO. Hence, the aforesaid objection/suggestion of the objectors are not acceptable and rejected.

10.72. We also note that some of the objectors have made suggestions that the transfer permission be provided for all entities without any restriction that only RE project developer/RE park developer will be permitted for transfer

permission is concerned the aforesaid suggestion/objection is already dealt and discussed and covered in earlier part of this Order.

- 10.73. As regard to seeking clarification by the Petitioner to the effect that if the provisions as sought in the Petition is made in the Order No. 01 of 2024 dated 22.02.2024, such provision in Regulation 13 (XI) of GERC (Green Energy Open Access) Regulations 2024 would be equally apply to such transferee entities, the same seems valid.
- 10.74. As regard other suggestions such as revisiting of supervision charges, time frame provided for commissioning of project, allowing submission of bank guarantee in lieu of land documents for applying stage II connectivity, flexibility in procedure for grant of connectivity, grant of extension in commissioning of the project etc. are concerned the aforesaid suggestions/objections which are not relevant to the subject matter of the present Petition and beyond the scope of the prayer and issues involved in the present Petition and are not accepted and the same are rejected.

**ORDER**

11. In view of above the present Petition succeeds as under.
- 11.1. While allowing the Petition, we decide and clarify that the RE projects which have been implemented based on connectivity granted by GETCO prior to 07.01.2023 i.e. prior to date of connectivity procedure approved by the Commission, were eligible for grant of transfer permission, transfer of connectivity, grant of open access, signing of transmission / wheeling agreement and commissioning of projects for transmitting / wheeling of energy from generating stations to consumption place and therefore transferee entities of such projects are allowed for the same, if already not permitted by GETCO/ DISCOMs/ GEDA.
- 11.2. We further decide to add following provisos in para 3.10 (c) of Order No. 01 of 2024 dated 22.02.2024:

*“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”*

- 11.3. We also decide and allow to add following provisos under clause 4.5 of “grant of connectivity to projects based on RE sources to intra-state transmission system” dated 7.01.2023:

*“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 ”*

- 11.4. We note the submission of the Petitioner and clarify that the requirement of declaration of RE project developer and RE park developer at the time of



connectivity application as referred to above amendment shall only apply to entities who apply in future since the entities who had already applied and granted connectivity, there was no provision for such declaration at the time of connectivity application made by them.

- 11.5. We also clarify that the aforesaid amendment would apply to transferee entities as referred under Regulation 13 (XI) of GERC (Green Energy Open Access) Regulations, 2024.
- 11.6. We further clarify that aforesaid amendment and decision taken in this Order with regard to grant of connectivity and transfer of connectivity for RE projects shall be equally applicable to all types of RE projects, which include Wind, Solar and Wind-Solar Hybrid Projects.
12. Order accordingly.
13. The present Petition stands disposed of as above.

**Sd/-**  
**(S.R. Pandey)**  
**Member**

**Sd/-**  
**(Mehul M. Gandhi)**  
**Member**

**Sd/-**  
**(Anil Mukim)**  
**Chairman**

Place: Gandhinagar

Date: 21/ 09 / 2024.