

**GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

In the matter of:

Gujarat Electricity Regulatory Commission (Multi-Year Tariff) (Second Amendment) Regulations, 2018

CORAM:

**Shri Anand Kumar, Chairman
Shri K. M. Shringarpure, Member
Shri P. J. Thakkar, Member**

STATEMENT OF REASONS

1. Background

Gujarat Electricity Regulatory Commission in exercise of the powers conferred by sub-section (2) of Section 181 read with Section 36, Section 39, Section 40, Section 41, Section 51, Section 61, Section 62, Section 63, Section 64, Section 65 and Section 86 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, and under Section 32 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act No. 24 of 2003) and all powers enabling it in that behalf, has notified the GERC (Multi-Year Tariff) Regulations, 2016 (Notification No. 4 of 2016).

The Commission vide Tariff Order dated 31st March, 2017 in Petition No. 1620 of 2016 determined the Transmission Charges for Short-Term Users of Transmission system in Rs./MW/Day basis and Transmission Charges payable in case of Short-Term Collective Transactions through power exchanges on Ps. per kWh basis in accordance with the aforesaid principal MYT Regulations, 2016.

Thereafter, the Commission received representations from various stakeholders requesting the Commission to determine uniform Short-Term Transmission Charges for all types of Short-Term transactions i.e. Intra-State, Inter-State bilateral and Collective transactions.

GETCO, in its Tariff Petition No. 1692 of 2017, has submitted that as per the CERC (sharing of inter-state transmission charges and losses) Regulations, 2010 and its amendments, the Transmission Charges are payable on per kWh basis for all types of short-term transactions i.e. transactions through power exchanges / collective or

bilateral. However, the Commission vide Order dated 31st March, 2017 has allowed recovery of transmission charges on per kWh basis for power exchanges / collective short-term transaction and per MW/day basis for bilateral short-term transaction as per the principal MYT Regulations, 2016. This has led to different types of charges for two transactions done under one nature of open access i.e. Short-Term Open Access (STOA). In that light, to make the recovery of short-term transaction charges in line with the CERC Regulations, GETCO had proposed to allow recovery of transmission charges on per kWh basis for all types of short-term transactions irrespective of whether short-term transaction is done through power exchange or under bilateral arrangement.

The Commission, in its Tariff Order dated 31st March, 2018 in Petition No. 1692 of 2017, has noted the representation of GETCO. The Commission also felt that there is a need to implement uniform Short-Term Transmission Charges for all types of Short-Term Users of the Transmission System in the State of Gujarat.

Accordingly, a draft GERC (Multi-Year Tariff) (Second Amendment) Regulations, 2018 along with an Explanatory Note was issued by the Commission.

Public Notice, inviting objections / suggestions / comments from the stakeholders on the said draft Amendment Regulations was published in the following newspapers:

Sr. No.	Name of the Newspaper	Language	Date of Publication
1.	Mint (Hindustan Times)	English	27.04.2018
2.	Sandesh	Gujarati	28.04.2018
3.	Gujarat Samachar	Gujarati	27.04.2018

The Commission also placed the draft Amendment Regulations along with an Explanatory Note on its website (www.gercin.org) to invite objections / suggestions from the stakeholders.

In response to the above, the Commission received the written objections / suggestions on this draft Amendment Regulations from following stakeholders:

1. Federation of Kutch Industries Association (FOKIA)
2. Federation of Gujarat Industries (FGI)
3. Torrent Power Limited (TPL)
4. Indian Energy Exchange (IEX)
5. Gujarat Urja Vikas Nigam Limited (GUVNL)

The Commission held a public hearing on 28th June, 2018 at the Commission's Office, Gandhinagar.

The list of the stakeholders who submitted their written suggestion / objections, those who remained present in public hearing, those who could not attend the public hearing and those who made oral submissions is given in the Table below:

Sr. No.	Name of Stakeholder	Written Submission	Oral Submission	Present on 28.06.2018
1.	Federation of Kutch Industries Association (FOKIA)	Yes	Yes	Yes
2.	Federation of Gujarat Industries (FGI)	Yes	Yes	Yes
3.	Torrent Power Limited (TPL)	Yes	Yes	Yes
4.	Indian Energy Exchange (IEX)	Yes	Yes	Yes
5.	Gujarat Urja Vikas Nigam Limited (GUVNL)	Yes	No	No
6.	Gujarat Energy Transmission Corporation Limited (GETCO)	No	Yes	Yes
7.	State Load Despatch Centre (SLDC)	No	Yes	Yes

2. Stakeholders' Suggestions / Objections and Commission's Views

2.1. In response to the public notice inviting objections / suggestions from the stakeholders on the draft Amendment Regulations, number of stakeholders filed their objections / suggestions within the prescribed timeline. Almost all these objectors participated in the public hearing. The comments / suggestions offered by the stakeholders on the proposed amendments and the Commission's decision thereon are discussed hereunder:

2.1.1. The objectors, Federation of Kutch Industries Association (FOKIA) and Federation of Gujarat Industries (FGI) requested to maintain the present modality / formula for recovery of Transmission Charges from Short-Term Open Access (STOA) bilateral transactions on account of following:

- **Two-fold rise for STOA users under Bilateral Contract**

The Commission vide Tariff Order dated 31.03.2018 for GETCO determined the Transmission Tariff as Rs. 4207.17 / MW / Day. Therefore, the Transmission Tariff for STOA users under bilateral contracts works out to Rs. $4207.17/24000 = \text{Rs. } 0.1753$ per unit, i.e., 17.53 Paisa / unit on Round the Clock basis. With the proposed amendment it will work out to the same as for the collective transactions i.e. 36.92 Paisa per kWh. This tantamounts to almost 100% increase and all STOA users under bilateral contracts are adversely affected for no reason. This will unduly enrich the Utilities which are already recovering their full costs under the tariff.

- **Transmission Charges for bilateral contracts has to be lesser than for Collective Transactions**

It is submitted that the bilateral transactions are generally cancelled first in the event of exigencies and / or congestion in the system and the collective transactions enjoy the benefit to stay. Therefore, it would be illogical,

arbitrary and unjust to raise the bilateral transaction charges and make it equal to the collective transaction charges.

- **Necessary to incentivise the Bilateral Contracts**

In the long term interest of the power sector the bilateral contracts are required to be incentivized in preference to other transactions such as overdrawals, Deviation Settlement Mechanism / Unscheduled Interchange regime, collective transactions etc. The proposed amendment would lead to disincentivize the bilateral transactions under STOA in preference to collective transactions under STOA.

- **Adverse conditionalities and Last Priority to be considered**

The STOA, unlike MTOA / LTOA / Collective Transactions has following inherent disadvantages:

- I. The capacity available as a result of surrender or reduction or cancellation of the reserved capacity by the SLDC may be reserved for any other STOA user as per these Regulations.
- II. There is no overriding preference for existing STOA users for renewal on expiry of the period of STOA.

The permission for STOA is generally given taking into account the Contract Demand of the users, although such provision is not there under the Regulations. Therefore, any recovery of additional transmission charges through upward revision therein for the bilateral transactions under STOA is not justified as no additional transmission capacity is used in such cases.

It would be unjust and against the principles of Tariff Determination based on Cost of Service as mandated under the Act, 2003 and the Tariff Policy, if bilateral contracts under STOA are charged the same Transmission Tariff which is being levied on other Open Access users for the residual capacity.

The proposed draft Amendment Regulations cannot be considered at this stage as similar case on determination of Transmission Charges for STOA users vide Special Civil Application No. 18240 of 2014 filed by GETCO is sub-judice before the Hon'ble High Court of Gujarat.

Commission's View

We note that the Commission vide Transmission Tariff Orders in Petition Nos. 1620 of 2016 and 1692 of 2017 determined the Intra-State Transmission Charges for Short-Term Users of transmission system on Rs./MW/Day basis

and the Transmission Charges payable in case of Short-Term collective transactions through power exchanges on Ps. per kWh basis in accordance with provisions of Regulations 72.2 and 72.3 of the GERC (Multi-Year Tariff) Regulations, 2016. It is also observed that the resultant per unit transmission charges varies depending upon the period of transactions and types of transactions under STOA. Thus, the methodologies for recovery of Transmission Charges for Collective Transactions and Bilateral Transactions under STOA are not uniform.

The Commission, further takes note of the Transmission Charges for Inter-State Short-Term Bilateral transactions being determined by CERC on Rs./MWh basis, i.e. on 'Energy Wheeled' basis.

It is also observed that these Regulations are not consistent with each other in recovery of Transmission Charges for STOA transactions such as Inter-State and Intra-State Transactions, Collective Transactions and Bilateral Transactions. The Commission is of the view that such inconsistency in the recovery of Transmission Charges for different types of STOA transactions needs to be addressed to bring them 'on par' with each other so as to bring about uniformity.

As regards the case before the Hon'ble High Court of Gujarat, the same is against the second amendment to the Principal GERC Open Access Regulations, 2011 whereas the proposed amendments are with respect to the GERC (Multi-Year Tariff) Regulations, 2016.

- 2.1.2. The Objector, Torrent Power Limited - Distribution (TPL-D) has requested to notify the draft Amendment Regulations as proposed changes are in line with provisions of the GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011 read with Amendments therein.

TPL-D has submitted that the Commission vide Notification No. 3 of 2014 dated 12.08.2014, notified the GERC (Terms and Conditions of Intra-State Open Access) (Second Amendment) Regulations, 2014. Regulation 21 (2) (ii) of the said Regulations specifies the methodology for computation of Transmission Charges for all STOA users i.e. on per unit basis. The relevant excerpt is given as under:

“(ii) By Short-Term Open Access Customers:

Transmission Charges payable by a Short-Term Open Access customer shall be determined as under:

Transmission charges payable by Short-term open access customers

= $TTC / (ACs \times 8760)$ (In Rs./MWh)

Where; TTC = Total Transmission Cost determined by the Commission for the transmission system for the relevant year (in Rs.) and ACs = Sum of capacities allocated to all long-term and medium-term open access customers in MW

Provided that transmission charges for short-term open access shall be payable on the basis of the energy actually scheduled for Short-Term transactions.”

Further, it is submitted that the CERC (Open Access in inter-State Transmission) Regulations and the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 provides for STOA charges on per unit basis. Thus, the proposed amendment would avoid any ambiguity with the Open Access Regulations and the practice being followed by SLDC / GETCO.

TPL-D has further submitted that the proposed amendment should not be used to levy additional transmission charges with retrospective effect and that too selectively from the private distribution licensees as it has recently been directed by SLDC to pay differential amounts retrospectively from April, 2017 on the basis of Rs./MW/Day instead of Rs./MWh. TPL-D has further submitted that recovery of additional transmission charges for the past periods by relying on this draft Amendment Regulations would lead to additional cost for its consumers. The Objector, further referring to Procedure for Scheduling of CERC Short-Term Open Access in Inter-State Transmission (Bilateral Transaction) submitted that any commercial transactions concluded based on prevailing STOA rates cannot be reviewed subsequently. The relevant provisions is reproduced below:

“1.6 No retrospective adjustments for short-term open access charges shall be made for the already approved short-term open access bilateral transactions.”

TPL-D has requested the Commission to direct SLDC / GETCO, appropriately, not to impose any additional cost for the past periods where transactions were concluded based on the prevailing commercial prudence.

Commission’s View

As regards the issue of past recovery of Transmission Charges, the same does not pertain to the draft Amendment. Accordingly, the Commission does not find it appropriate to deal with it in the present proceedings.

- 2.1.3. The objector, Indian Energy Exchange (IEX), has suggested that the Commission should specify a methodology for determination of Transmission Charges for STOA in the draft Amendment Regulations as prescribed in the

GERC (Terms and Conditions of Intra-State Open Access) (Second Amendment) Regulations, 2014 for consistency and rationality across Regulations, otherwise the proposed amendments in the Principal Regulations, 2016 may result in inconsistency with the GERC (Terms and Conditions of Intra-State Open Access) (Second Amendment) Regulations, 2014.

IEX has further submitted that the methodology for determination of Transmission Charges for STOA in Open Access Regulations has evolved over a period of time and is a more rational and practical methodology. The GERC (Terms and Conditions of Intra-State Open Access) (Second Amendment) Regulations, 2014 specifies the methodology for determination of Transmission Charges for STOA transactions based on 'Allocated Capacity' rather than 'Energy Wheeled'. Therefore, there is no reason to again determine STOA Charges on the basis of Energy Wheeled rather than on Allocated Capacity. IEX has further submitted that the Hon'ble CERC also determines Transmission Charges for STOA transactions using 'Allocated Capacity' rather than 'Energy Wheeled'.

The Objector has further submitted that the transmission utility recovers its entire ARR through long-term and medium-term users based on their proportionate 'Allocated Capacity' and not based on the 'Energy Wheeled' by long-term and medium-term users (LTOA & MTOA). IEX has stated that the methodology adopted in the draft Amendment Regulations would therefore lead to higher Transmission Charges for STOA users compared to LTOA or MTOA users.

IEX has suggested that the Transmission Charges for STOA users should actually be lower than LTOA / MTOA users as there is no transmission capacity reserved for them and they are being given residual capacity in the system having last priority for allocation and highest priority for curtailment. Thus, the STOA users operate in a scenario of low priority and high risk and therefore, they should be incentivised for better system utilization as they are allocated the residual capacity after the fulfilment of requirement of LTOA and MTOA users. Higher Transmission Charges would adversely impact short-term market rendering it unviable for STOA users due to several tariff and non-tariff barriers, threatening the existence of power market in the State.

Commission's View

While the Commission notes the suggestion of IEX, it is clarified that the proposed amendment is for bringing about uniformity and removing ambiguity in interpretation across the Regulations which has also been supported by the objector.

- 2.1.4. The Objectors, Gujarat Urja Vikas Nigam Limited (GUVNL), Gujarat Energy Transmission Corporation Limited (GETCO) and State Load Despatch Centre

(SLDC) have submitted that the proposed amendment would bring uniformity in applicability of transmission charges for STOA transactions irrespective of whether a transaction is collective or bilateral, as there is no reason to differentiate the applicability of short-term transmission charges based on the nature of transaction i.e. collective transaction or bilateral transaction.

Further, the objectors have submitted that the proposed amendment is in line with the CERC (sharing of inter-state transmission charges and losses) Regulations, 2010 and its amendments which provides for applicability of uniform short term transmission charges on Rs./kWh basis for all types of transactions whether through power exchange / collective or bilateral. However, as per the provisions of existing Regulations, applicability of transmission charges is on Rs./MW/day basis for bilateral short-term transaction whereas it is on Rs./kWh basis for power exchange / collective short-term transaction, Therefore, there is a requirement of uniform short-term transmission charges on per kWh basis for all types of short term transactions.

Commission's View

We have noted that the Objector has supported the amendment proposed by the Commission to bring uniformity.

3. Commission's Decision

After going through suggestions and observations from stakeholders, the Commission hereby decides that the draft Second Amendment in the GERC (MYT) Regulations, 2016 be published in the Official Gazette.

4. We order accordingly.

Sd/-
(P. J. THAKKAR)
Member

Sd/-
(K. M. SHRINGARPURE)
Member

Sd/-
(ANAND KUMAR)
Chairman

Place: Gandhinagar
Date: 14/08/2018