

No - 1014

GERC/SC/2014/

Date: 9 May 2014



Gujarat Electricity Regulatory Commission

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To,

The Managing Directors,

1. Uttar Gujarat Vij Company Limited, Mehsana,
2. Dakshin Gujarat Vij Company Limited, Surat,
3. Paschim Gujarat Vij Company Limited, Rajkot,
4. Madhya Gujarat Vij Company Limited, Vadodara,
5. Torrent Power Limited, Ahmedabad and Surat.
6. Torrent Energy Limited, Surat
7. The Chief Engineer, SLDC, Vadodara.

Sub: Implementation of Intra-State Open Access.

The preamble of the Electricity Act, 2003 specifies "promotion of competition in the electricity industry" as one of the prime objectives of the Act. Further, section 42 of the Act enjoins the state Commission to introduce Open Access in the distribution system and at the same time mandates the distribution licensees to provide non-discriminatory Open Access through its distribution network. Accordingly, the GERC notified the GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011.

However, it has been brought to the notice of the Commission that while dealing with the applications for grant of Short Term Open Access, some of the

distribution licensees and the SLDC are taking recourse to actions which are either not in line with the regulation or are not mandated by the Commission under any order or regulations. Some of such incidents observed by the Commission are as under:

(i) **DISCOMs insistence on under drawal to be kept less than 12%**

The distribution licensees are insisting that the under drawal of the open access customer must not be more than 12% in any time block. The licensee is threatening the customer that if during any time block the underdrawal is more than 12%, the consent granted for open access shall be withdrawn immediately. This condition is being imposed, presumably in view of the Deviation Settlement Regulations notified by the Central Commission.

In this regard it may be clarified that so far as the intra-state open access is concerned, the regulations of the Central Commission cannot be unilaterally applied by any licensee unless it has been explicitly adopted by the State Commission. The GERC has already introduced Intra-state ABT mechanism in the state and unless the Commission makes any amendment to it, such action of any licensee is without any authority and a clear violation of the Commission's ABT order.

(ii) **DISCOMs insisting on minimum 1 MW drawal at all times:**

The distribution licensees are insisting that at any time block the drawal of power by an open access customer should not fall below 1 MW. In this regard it is observed by the Commission that it is not

realistic to presume that the consumption of any customer shall be constant throughout. Further, the drawal of the consumer may be affected due to breakdown of its plant and machinery. To address such issues, the Commission has provided for imbalance charges in regulation 32 of the Intra-state Open Access Regulations, 2011. The licensee should, therefore, refrain from putting such unrealistic conditions. In fact, the Commission in order to redress the genuine difficulties of the distribution licensees, agreed to their proposal regarding RTC scheduling of open access transactions in suo-motu petition No. 1226/2012. Further, in case of Petition No. 1325 of 2013 and allied matters, the Commission vide its order dated 18.10.2013 clarified that the minimum capacity of 1 MW for availing open access has been stipulated for scheduling and not for drawal at all times.

(iii) Delay in issuing consent by the DISCOMs

It has been reported that the distribution licensees are not giving consent for STOA within the timeframe stipulated in the regulations. They are advised to stick to the prescribed time lines. As per regulation 16(2) the distribution licensees have to give consent within three working days from the receipt of the application failing which the application is considered as deemed to have been granted and action to be taken accordingly.

(iv) SLDC refusing STOA on the pretext of non-receipt of consent from distribution licensees.

It has been noticed that in certain cases, the SLDC has refused STOA stating non-receipt of consent from the DISCOM as the reason for refusal. In this regard, the SLDC is advised to refer to clause 16(2)(f) of the Intra-State Open Access Regulations, which stipulates as under:

“16(2)(f) where the distribution licensee has not communicated any deficiency or defect in the application within 2 days from the date of receipt of application or refusal or consent within the specified period of three (3) working days from the date of receipt of the application consent shall be deemed to have been granted”

By ignoring the above clause, the SLDC has clearly gone beyond its mandate, which may be a violation of the Commission's regulations.

(v) SLDC refusing STOA due to non-receipt of consent from the transmission licensee.

Some cases of STOA application have been refused on the ground that the consent of the Transmission Licensee is not received. In this connection, the Commission has observed that in terms of section 32 of the Electricity Act, 2003, the SLDC is the apex body to ensure integrated operation of the power system in the State. The SLDC is responsible for supervision and control over the intra-state transmission system and

carrying out real-time operations of the grid. Moreover, the STOA is to be granted if the resultant power flow can be accommodated in the existing transmission system. Under the Intra-State Open Access Regulation, the SLDC is the nodal agency for granting the STOA, and the transmission licensee has no role to play in case of STOA. As such, by involving the transmission licensee in STOA cases, the SLDC has clearly over-stepped its jurisdiction.

(vi) Non-communication of consent or refusal:

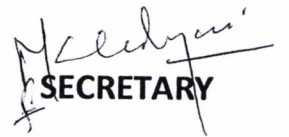
It has also been reported that in many cases, the STOA is neither refused nor granted for substantial periods. The regulations provide for a definite timeframe for communicating either the sanction or refusal of STOA. The SLDC has obviously not followed the regulations in this matter. As such, the SLDC is advised to strictly adhere to the timeframe stipulated in the regulations.

On the basis of the above, the Commission feels that the distribution licensees and the SLDC are not adhering to the regulations notified by the Commission and views it seriously. They are directed to avoid the above irregularities with immediate effect and in case any such deviations are reported hereafter, the Commission shall be constrained to initiate action under section 142 of the Act. As the public utilities, it is their duty to act responsibly and according to the regulations. In case they face any difficulty in giving effect to any provisions of the Act, they are at liberty to approach the Commission as provided in clause 45 of the open access regulations. However, in no case, they should amend, alter or modify any provisions of the regulations on their own.

Further, in order to monitor the progress of implementation of Commission's regulations/ order, all the distribution licensees and the SLDC are directed to submit the following information forthwith.

- (a) Details of STOA applications received from 1st April, 2014 onwards till date.
- (b) Details of communications sent to the applicants either granting or refusing consent/approval.
- (c) If no communication is sent in any case, reason thereof.
- (d) In case of grant of consent/approval, details of STOA applied for and approved.
- (e) In case of refusals, the reasons thereof.

The above information shall be submitted to the Commission within 7 days from the date of this communication. They are further directed to furnish similar information every fortnight by 5th /20th day of the month.


SECRETARY

C.C. To:

The Managing Director, Gujarat Urja Vikas Nigam Limited, Vadodara.

The Managing Director, Gujarat Energy Transmission Corporation Limited,
Vadodara.

Copy with regards to:

Chairman, GUVNL and Addtl. Chief Secretary, EPD