

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Order in Suo-Motu Petition No. 2140 of 2022**

**In the matter of:**

**Filing of application for Determination of Aggregate Revenue Requirement (ARR) and Tariff for FY 2023-24**

**CORAM**

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

**Date: 20/10/2022**

**ORDER**

1. The Commission initiated Suo-Motu proceedings under Regulations 23 and 24 of the GERC (Conduct of Business) Regulations 2004 for filing the applications by the Licensees for determination of Aggregate Revenue Requirement (ARR) and Tariff for FY 2023-24 by issuing Public Notice dated 14.09.2022 inviting comments and suggestions from the stakeholders for preparing and filing application for determination of Aggregate Revenue Requirement (ARR) and Tariff for FY 2023-24 based on the GERC MYT Regulations, 2016.
2. In the aforesaid public notice, it is also stated that the Commission defers the implementation of MYT Framework for one year and proposed the licensees, utilities and generating companies to file their application/petition for Truing up for FY 2021-22 and for determination of Annual ARR and Tariff for FY 2023-24 on or before 30.11.2022. It is specified in the Public Notice that the

stakeholders/ interested persons may file their comments/suggestions on the aforesaid Suo-Motu Petition to the Secretary, GERC. It is also stated that the public hearing in the aforesaid matter is scheduled on 17.10.2022 at 11.30 Hours.

3. Section 86 of the Act, 2003 lays down the functions of the Commission. The determination of tariff for supply of electricity is one of the important functions of the State Electricity Regulatory Commission. The relevant extract is reproduced as under:

*“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; ...”*

4. Further, while determining the tariff, the Commission follows the provisions of the Tariff Regulations notified under Section 61 of the Electricity Act, 2003 which consists of the terms and conditions for determination of tariff. The relevant extract of the said Section reads as under:

*“Section 61. (Tariff Regulations):*

*The appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the ....”*

5. The Commission has been notifying the terms and conditions for determination of tariff by framing the Tariff Regulations. The last MYT Regulations were notified by the Commission on 29.03.2016. These Regulations remained in force till 31.03.2021. The Commission had initiated the process of framing the new MYT Regulations for the new Control Period i.e. 4<sup>th</sup> Control Period by issuing Public Notice dated 10.08.2020, the process could not be completed due to circumstances and reasons beyond the control of the Commission such as COVID – 19 Pandemic and absence of Member (Legal). Accordingly, the Commission directed all the concerned utilities to file the ARR and Tariff petition based on principles and methodology as provided in the GERC (MYT) Regulations, 2016, for FY 2021-22 & FY 2022-23 consecutively vide Suo Motu Order No. 7 of 2020 dated 22.12.2020 and Suo Motu Order dated 24.09.2021 in Case No. 1995 of 2021 respectively.
6. The procedure and process of framing the new MYT Regulations is required to consider the past years' performance data of generating companies and licensees and frame the norms for performance parameters linked with Tariff Determination and ARR of the concerned generating companies and licensees. Moreover, these collected information on various performance parameters for the past periods are required to be discussed, deliberated, analysed and examined thoroughly for deciding the regulations. Therefore, the 'regulations making' is an intensive and time-consuming but important process. The varied complexity in framing the regulations requires a deep and pensive thought, with all considerations and contemplations which are to be properly examined before notifying the MYT Regulations. Further, concerned generating companies and licensees have been filing their tariff applications by 30th November

of the financial year so that the Commission can issue the Tariff Orders in timely manner, before commencement of next financial year. Therefore, there is a paucity of time for the notification of new MYT Regulations and inviting tariff applications for the next control period before 30th November. Moreover, the process of public consultation and public hearing shall also demand considerable time. Additionally, collection of past years' data of varied nature and analysing them for framing of fresh MYT Regulations also requires time and therefore, the Commission is of the considered opinion that such thorough examination cannot be completed due to paucity of time and enable generating companies and licensees to file their tariff applications for the next control period in a timely manner, i.e., before 30th November.

7. The GERC MYT Regulations, 2016 provide that in case if new Regulations do not come into effect on the last date of the MYT Regulations, 2016 i.e., 31.3.2021, the provisions of GERC MYT Regulations, 2016 shall remain in force. The relevant provisions of the said Regulations are reproduced below:

*“1.2 These Regulations shall come into effect from the date of their publication in the Official Gazette and shall remain in force till 31st March,2021, unless otherwise reviewed/extended.*

....

*7. Saving of Inherent Power of the Commission*

*7.1 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.*

*7.2 Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons*

*to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.*

*7.3 Nothing in these Regulations shall, expressly or by implication, bar the Commission to deal with any matter or exercise any power under the Acts for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.*

..

#### *12. Power of Relaxation*

*The Commission, for reasons to be recorded in writing, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.”*

8. Further, it is also necessary to refer to Regulations 23 and 24 of the GERC (Conduct of Business) Regulations, 2004 which provide power to the Commission to initiate the proceedings and issue appropriate orders. The said Regulations are reproduced below”

*“23. The Commission may initiate any proceedings suo moto or on a Petition filed by any affected person.*

*24. The notice of the initiation of the proceedings may be issued by the Commission, and the Commission may give such orders and directions as may be deemed necessary, for services of notices to the affected parties, the filing of Reply in opposition or in support of the Petition in such form as it may direct.*

*The Commission may, if it considers appropriate, issue orders for publication of the Petition and/or Reply inviting comments on the issues involved in the proceedings in such form as the Commission may direct.”*

From the aforesaid, it is clear that the Commission has power to initiate Suo-Motu Proceedings in any matter. Further Regulation 1.2 of the GERC MYT Regulations, 2016 provides that the

Regulations shall remain in force till 31<sup>st</sup> March, 2021, unless otherwise reviewed/extended.

9. The Commission has invited comments / views from the stakeholders by issuing Public Notices in the following newspapers:

<b>Sr. No.</b>	<b>Name of the Newspaper</b>	<b>Language</b>	<b>Date of Publication</b>
1	The MINT-Hindustan Times	English	15.09.2022
2	The Gujarat Samachar	Gujarati	16.09.2022
3	Divya Bhaskar	Gujarati	16.09.2022

The said public notices and the Petition were also placed on the Commission's website ([www.gercin.org](http://www.gercin.org)) for inviting comments / views on the Petition. The interested persons / stakeholders were asked to file their comments / suggestions/ views regarding Suo Motu Petition to the Secretary, GERC on or before 14<sup>th</sup> October, 2022.

10. In response to the aforesaid Public Notice, the Commission has received comments/suggestions from M/s Gujrat Krushi Vij Grahak Suraksha Sangha (GKVGSS), Gujarat Urja Vikas Nigam Ltd. (GUVNL) and Torrent Power Ltd. (TPL).

10.1 M/s Gujrat Krushi Vij Grahak Suraksha Sangha (GKVGSS) has submitted that a delay in the preparation of the MYT Regulations due to epidemics like Corona is understandable, but there is no reasonable or justified reasons for the subsequent delay in the finalization of the MYT Regulations.

Further, it is submitted that if it is not required, the provision of the MYT Regulations should be cancelled permanently as the work of tariff determination is doubled under MYT regime due to yearly truing up and determination of ARR and Tariff exercise needs to be undertaken even after MYT exercise. It is suggested to separate the Tariff Petition into Truing up Petition and Petition for the Tariff Determination as the consumer organizations shall get an adequate time for the Petitions on Tariff Determination. It is also suggested that there should be a separate registration for Tariff and Non-Tariff Matters and a priority should be attached based on the importance of the matter.

10.2 GUVNL has submitted that they do not have any objection to the proposal for filing of Aggregate Revenue Requirement (ARR) and tariff proposal for FY 2023-24 based on the principles and methodology as provided in the GERC MYT Regulations, 2016 and deferment of implementation of MYT Regulations framework for further one year. They have requested that the Commission may grant extension up to 31.01.2023 to file ARR and tariff proposal for FY 2022-23, instead of 30.11.2022, as the state owned DISCOMs shall be required to approach Government of Gujarat for concurrence and confirmation about subsidy support and tariff revision based on estimated gap/surplus position of FY 2022-23.

10.3 TPL has submitted that they support Commission's proposal to defer the implementation of new MYT framework for one year and file application / petition for determination of Annual ARR and Tariff for FY 2022-23 based on the principles and methodologies as provided in the GERC (MYT) Regulations,

2016. They have also submitted that the Commission may give sufficient time to prepare the tariff petitions based on the clarity/directions to be issued through the final order.

11. The matter was kept for hearing on 17.10.2022. On that day following stakeholders and their representatives remained present during the hearing:

<b>Sr No.</b>	<b>Name of Stakeholders</b>	<b>Name of the Representative</b>
1	Gujarat Urja Vikas Nigam Ltd. (GUVNL)	Shri V. T. Patel
2	Torrent Power Ltd. (TPL)	Shri Jignesh Langalia

12. During the hearing, Shri V. T. Patel, on behalf of GUVNL, submitted that the Commission may grant extension up to 31.01.2023 instead of 30.11.2022, for filing tariff application for approval of true-up of FY 2021-22 and for determination of Annual ARR and Tariff for FY 2023-24 due to requirement for approaching Government of Gujarat for concurrence and confirmation about subsidy support and tariff revision based on estimated gap/surplus position and also sighting the reasons for the State Assembly Election year. Shri Jignesh Langalia, on behalf of TPL submitted that they have no objection against this Petition and supports this Petition.

13. Shri J. V. Tetar, on behalf of GKVGSS, vide e-mail dated 17.10.2022 has submitted that due to unavoidable circumstances they are not able to attend the physical hearing for Suo Motu Petition No. 2140/2022. He has further submitted that representation as



communicated vide submission dated 23.09.2022 may be considered as their submission.

14. We heard the parties. We have considered the submission made by them. We note that one of the important concerns is to determine the tariff and carry out true-up in proper time frame enabling the Licensees to recover the tariff from the consumers/beneficiaries for the ensuing year at proper time to meet out its Annual ARR. It is, therefore, necessary to initiate the tariff proceedings at proper time giving an opportunity to the licensees/utilities for preparation of petition/application and file before the Commission. Such petitions are also required to be published for the knowledge of the stakeholders' inviting comments and suggestions and consider the same by the Commission. The Commission also requires to analyze the proposals of the licensees, generating companies and SLDC, comments of the consumers/stakeholders and pass appropriate order on such petitions in a prescribed time manner so that the licensees, generating companies and SLDC will be able to recover its tariff and meet out Annual ARR in sufficient time frame of the Financial Year. As the Financial Year is starting from 1<sup>st</sup> April, it is necessary for the Commission to pass appropriate order within 120 days specified in Section 64 of the Electricity Act, 2003 which works out to 30<sup>th</sup> November of the previous Financial Year by the licensee/generating company. Further, the MYT Regulations, 2016 also provide that the licensee/generating company shall file their petition on or before 30<sup>th</sup> November of the Financial Year.
15. We note that in the Suo-Motu proceedings, all the interested parties agreed with the background and views expressed in the Suo Moto Petition. Accordingly, the Commission decides to adopt the

determination of annual ARR and Tariff for FY 2023-24 based on the GERC (MYT) Regulations, 2016 and defer the implementation of MYT Framework for further one year. So far as GSECL, GETCO, SLDC, MUL, DPA, Aspen Park Infra and GIFT PCL concerned, there are no submissions nor any representatives remained present during the hearing and requested for extension of time limit for filing the tariff application. Only GUVNL has requested to grant extension up to 31<sup>st</sup> January, 2023 on the ground of taking approval from the Government about the subsidy and tariff revision based on the estimated gap/ surplus position of FY 2023-24 for the State-owned Distribution Companies.

16. We note that the proceedings and the issuance of Orders with respect to tariff applications for FY 2023-24 must be completed in a timely manner. As regards the request for time limit extension for filing the tariff application for FY 2023-24 being put forwarded by GUVNL, we, therefore, decide to grant the extension of time limit for filing the tariff applications further 15 days i.e. up to 15<sup>th</sup> December, 2022.
17. Regarding suggestion for separate filing of the Tariff Petitions for Truing up and Tariff Determination, as submitted by M/s Gujrat Krushi Vij Grahak Suraksha Sangha (GKVGSS), the Commission decides to continue with the prevailing practice of combined filing of applications', which is comprising of Truing up of previous financial year and Determination of Aggregate Revenue Requirement (ARR) and Tariff for ensuing financial year, looking to the present circumstances and time-frame. Further, this suggestion of separate filing will be considered at the time of preparation of draft GERC (MYT) Regulations for the 4<sup>th</sup> Control Period.

18. M/s Gujrat Krushi Vij Grahak Suraksha Sangha (GKVGSS) also submitted the some suggestions/comments/views related to tariff structure and tariff charges. We have taken the note of these suggestions/comments/views and the same may be considered at the time of finalizing the relevant Tariff Orders.

**ORDER**

19. We decide and direct generating companies, SLDC, licensees and utilities to file their tariff applications for approval of true-up for FY 2021-22 and for determination of Annual ARR and Tariff for FY 2023-24 on or before 15.12.2022 based on the principles and methodologies as provided in the GERC (MYT) Regulations, 2016 and amended thereof.

20. We Order accordingly.

**-Sd-**  
**[S. R. PANDEY]**  
**Member**

**-Sd-**  
**[MEHUL M. GANDHI]**  
**Member**

**-Sd-**  
**[ANIL MUKIM]**  
**Chairman**

Place: Gandhinagar  
Date: 20/10/2022