

BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY
COMMISSION, AT AHMEDABAD
ORIGINAL REGULATORY JURISDICTION

FILING NO.
CASE NO.

IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy;

AND

Federation of Kutch Industries Associations & Anr.

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

...Respondents

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Petitioners

Through Counsel

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Varun Pathak

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MR NO. 2180
30-7-18
Male

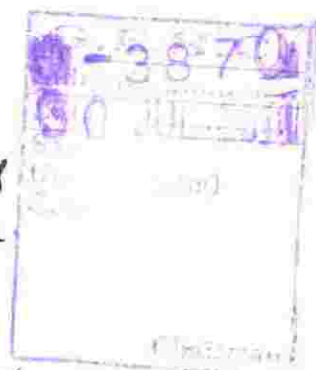
P/ accept the fees of Rs. 5000/-
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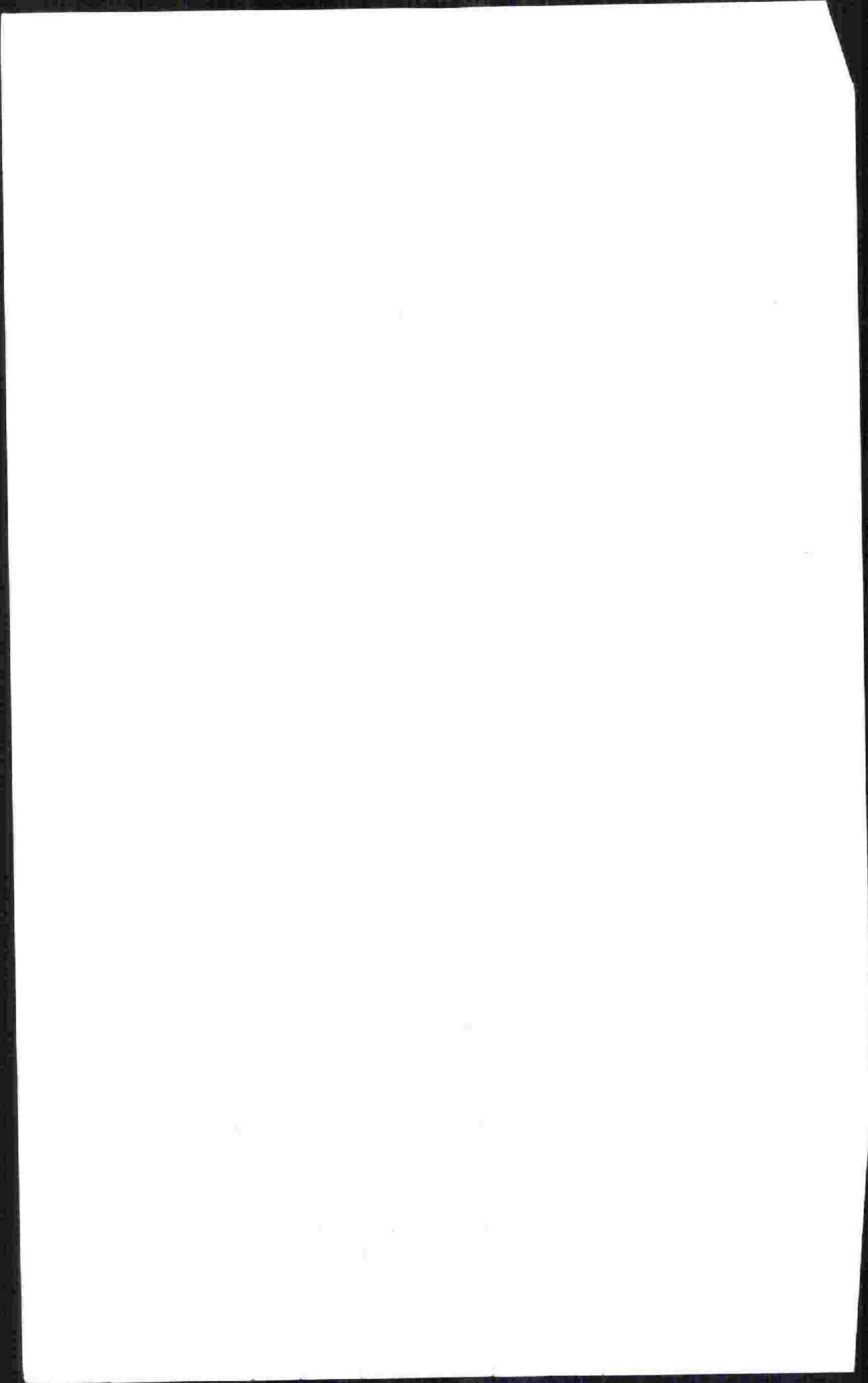
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AND

Federation of Kutch Industries Associations,
5th Patel Towers, Near Jaynagar bus stop,
Bhuj-Mirzapur road, Bhuj, Kutchh - 370001,
Gujarat.

...Petitioner No. 1

Federation of Gujarat Industries,
FGI Business Centre,
Gotri-Sevasi road, Khanpur, near Sevasi,
Vadodara - 391 101, Gujarat.

...Petitioner No. 2

VERSUS

Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhavan,
Race Course,
Vadodara 390 007,
Gujarat.

...Respondent No. 1

Madhya Gujarat Vij Company Limited,
Sardar Patel Vidyut Bhavan,
Race Course,
Vadodara 390 007,
Gujarat.

...Respondent No. 2

Uttar Gujarat Vij Company Limited,
Visnagar Road, Mehsana - 384001,
Gujarat.

...Respondent No. 3

Paschim Gujarat Vij Company Limited,
Paschim Gujarat Vij Seva Sadan
Off. Nana Mava Main Road,
Laxminagar, Rajkot - 360004,
Gujarat.

...Respondent No. 4

Dakshin Gujarat Vij Company Limited,
Urja Sadan,
Nana Varachha Road,
Kapodara, Surat - 395 006,
Gujarat.

...Respondent No. 5

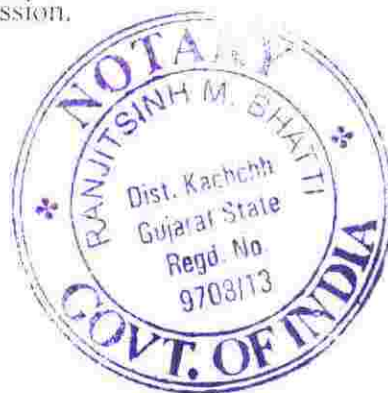
State Load Despatch Centre (SLDC)
132 KV Gotri Sub-Station Compound.

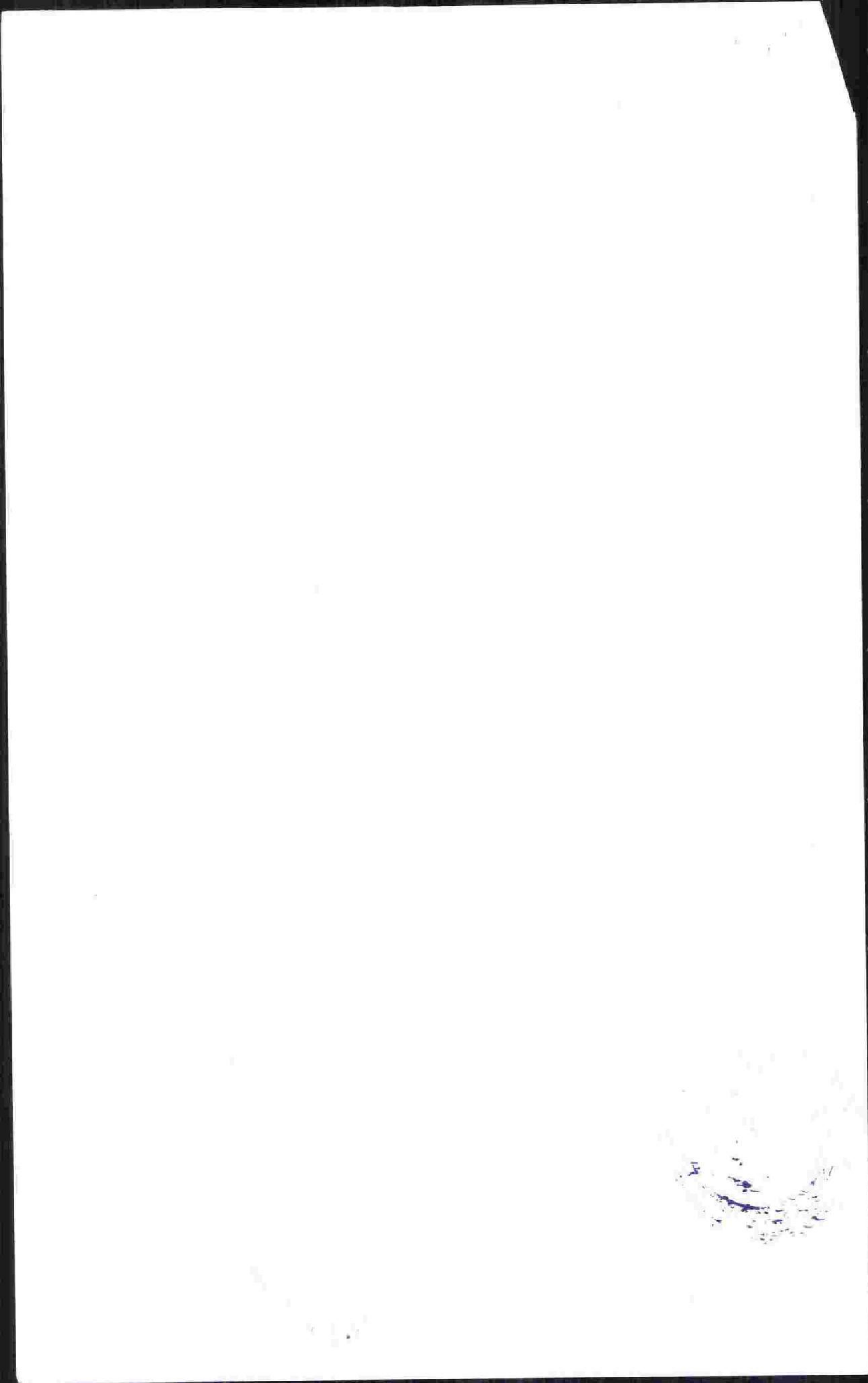


MOST RESPECTFULLY SHOWETH:

INTRODUCTION

1. That the instant petition is being filed on behalf of '**Federation of Kutch Industries Associations**' (hereinafter "**FOKIA**") and Federation of Gujarat Industries (hereinafter "**FGI**") (collectively "**Petitioners**") seeking a determination, adjudication, regulation and clearer statutory enunciation of the methodology regarding '**Additional Surcharge**' being levied upon open access consumers within the State of Gujarat to be calculated in conformity with the principles enshrined under the Electricity Act, 2003 (hereinafter "**the Act**") for achieving the purpose stated thereto, thus, the instant petition. The issues being raised in the present petition affect the open access consumers of the State of Gujarat and as such have larger sectoral implications. The said issues are adumbrated in succeeding paragraphs of the instant petition.
2. That FOKIA is Petitioner No. 1 herein and is instituting the present petition through Mr. Nimish Phadke who has been duly authorised by FOKIA to institute the present petition. FOKIA is an umbrella organisation of large, medium and small industries dedicated for resolving the policy related issues to increase the pace of socio-economical development of Kutch district, since year 2000 and has more than 65 members many of whom are open access electricity consumers in the State of Gujarat and are affected by the determination of Additional Surcharge by this Hon'ble Commission.



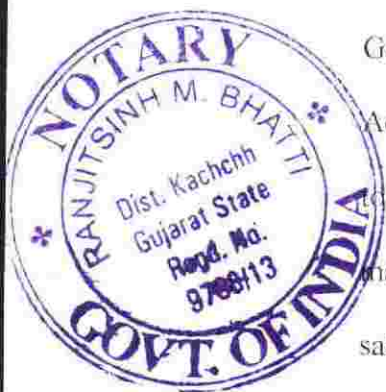


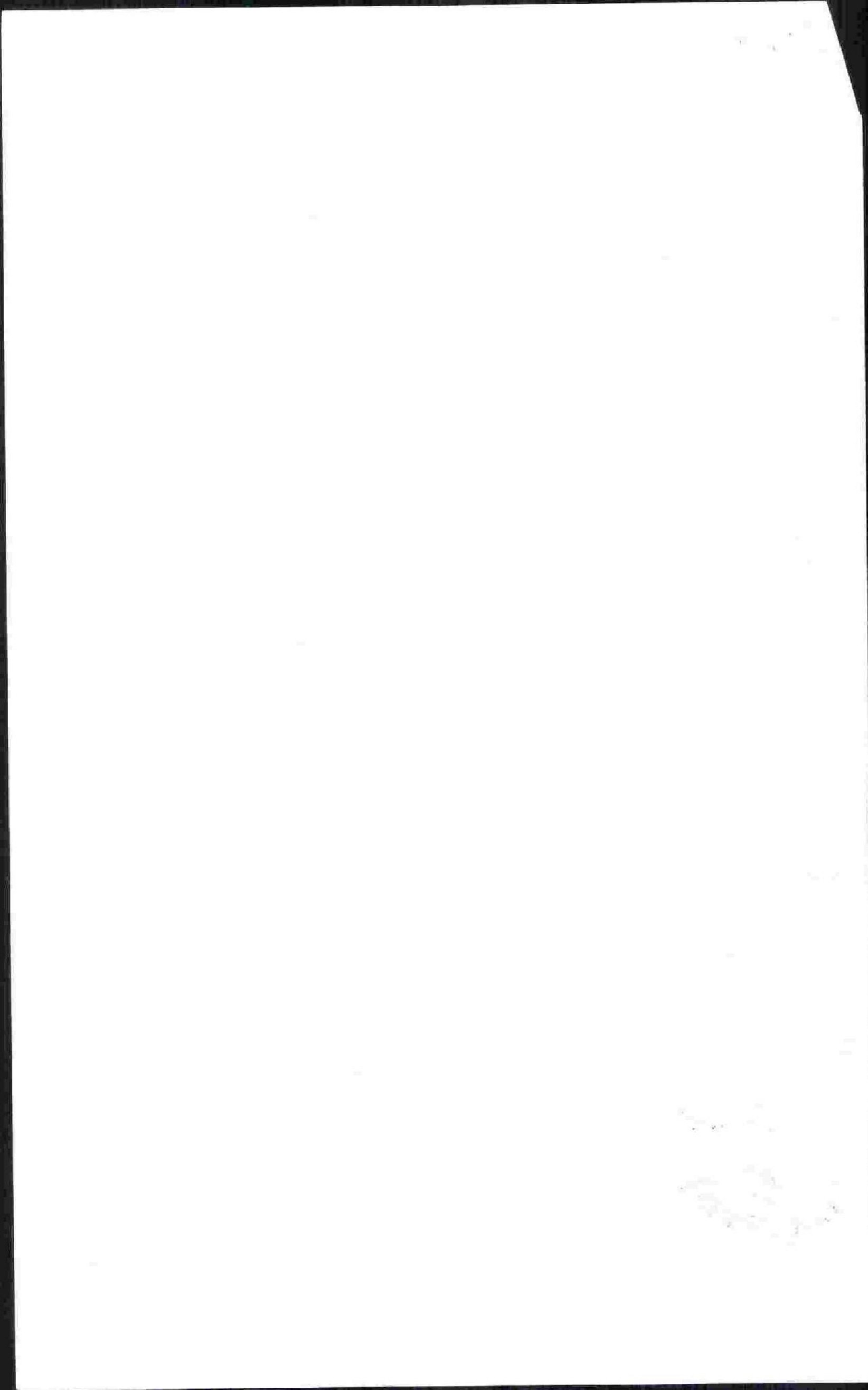
A copy of resolution dated 27th June, 2018 authorising Mr. Nimish Phadke to institute the instant petition is annexed herewith and marked as **Annexure A-1** to the instant petition.

3. That FGI is Petitioner No. 2 herein and is instituting the present petition through Mr. Nitesh Patel, Secretary General who has been duly authorised by FGI to institute the present petition. FGI has played a vital role in setting up of forum of federations, chambers and associations of industries of Gujarat comprising of associations in an around Vadodara region to take up and resolve common issues of industries. Over the years of its existence, the FGI has witnessed the early age of industrialization, the golden era of the Gaekwad regime, the turbulent ups and downs of the first and second world war and even the freedom struggle which led to our nation's independence and finally, the growth of modern industries to face the challenges in the present age of globalization. FGI was established on June 22, 1918 in the name of '**Baroda Mills Owners Association**' with the blessings of Maharaja Sayajirao Gaekwad and presently has approximately 350 members spanning the various sectors in Vadodara. Many members of FGI are open access electricity consumers in the State of Gujarat and are affected by the determination of Additional Surcharge by this Hon'ble Commission.

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A copy of resolution dated 6th July 2018 authorising Mr. Nitesh Patel, Secretary General to institute the instant petition is annexed herewith and marked as **Annexure A-2** to the instant petition.

4. That as part of power reform process the Act was passed by the Central Government and Gujarat Electricity Industry (Re-organization & Regulation) Act, 2003 (hereinafter "**Gujarat Act**") was passed by the government of Gujarat to restructure the electricity sector with an aim to improve efficiency in management and delivery of services to consumers. Under the provisions of the said enactments government of Gujarat framed the Gujarat Electricity Industry Re-organization & Comprehensive Transfer Scheme, 2003 (hereinafter





"Transfer Scheme") by Government Notification dated October 24, 2003 for transfer of assets and liabilities of erstwhile Gujarat Electricity Board (hereinafter "GEB") to the successor entities. Accordingly GEB was reorganized effective from April 1, 2005 into seven companies with functional responsibilities of trading, generation, transmission and distribution, etcetera. The companies thus incorporated were as under:

- a. Gujarat Urja Vikas Nigam Limited (hereinafter "GUVNL"). Holding Company.
- b. Gujarat State Electricity Corporation Limited (hereinafter "GSECL"). Generation Company.
- c. Gujarat Energy Transmission Corporation Limited (hereinafter "GETCO"). Transmission Company.
- d. Uttar Gujarat Vij Company Limited (hereinafter "UGVCL"). Distribution Company.
- e. Dakshin Gujarat Vij Company Limited (hereinafter "DGVCL"). Distribution Company.
- f. Madhya Gujarat Vij Company Limited (hereinafter "MGVCL"). Distribution Company.
- g. Paschim Gujarat Vij Company Limited (hereinafter "PGVCL"). Distribution Company.

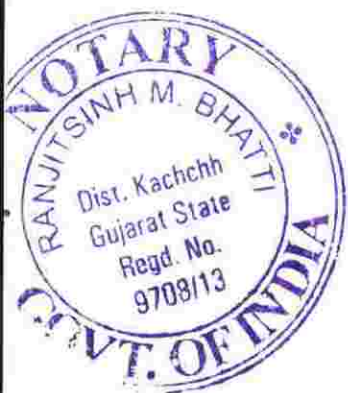
5. That GUVNL was incorporated as a government of Gujarat company and holds 100% shares in the other six companies. GUVNL is engaged in the business of bulk purchase and sale of electricity, supervision, co-ordination and facilitation of the activities of its six subsidiary companies. Whereas, GSECL is engaged in the business of generation of electricity; GETCO is engaged in the business of transmission of electricity; and UGVCL, DGVCL, MGVCL and PGVCL are engaged in the business of distribution of electricity in the northern, southern, central and western areas of Gujarat respectively.



6. That this Hon'ble Commission by its order dated March 12, 2014, in Petition No. 1302 of 2013 filed by GUVNL and its subsidiary distribution companies, decided the applicability of additional surcharge to the open access consumers, methodology for computation of the surcharge and the rate of surcharge applicable for the period April 1, 2014 to September 30, 2014 based on the data of April 1, 2013 to September 30, 2013. Subsequently, this Hon'ble Commission decided the applicable additional surcharge for various control periods by the following orders:

- a. Order No. 2 of 2014 dated September 25, 2014 for control period October 1, 2014 to March 31, 2015 based on the data of October 1, 2013 to March 31, 2014;
- b. Order No. 1 of 2015 dated March 30, 2015 for control period April 1, 2015 to September 30, 2015 based on the data of April 1, 2014 to September 30, 2014;
- c. Order No. 4 of 2015 dated October 28, 2015 for control period October 1, 2015 to March 31, 2016 based on the data of October 1, 2014 to March 31, 2015;
- d. Order No. 1 of 2016 dated March 4, 2016 for control period April 1, 2016 to September 30, 2016 based on the data of April 1, 2015 to September 30, 2015;
- e. Order No. 3 of 2016 for control period October 1, 2016 to March 31, 2017 based on the data of October 1, 2015 to March 31, 2016;
- f. Order No. 1 of 2017 for control period March 1, 2017 to September 30, 2017 based on the data of March 1, 2016 to September 30, 2016; and
- g. Order No. 4 of 2017 for control period October 1, 2017 to March 31, 2018 based on the data of October 1, 2016 to March 31, 2017 as furnished by GUVNL and its distribution companies.

7. That this Hon'ble Commission in the order dated March 12, 2014 in Petition No. 1302 of 2013 decided that the rate of additional surcharge for the subsequent periods shall be determined by this Hon'ble Commission on similar methodology

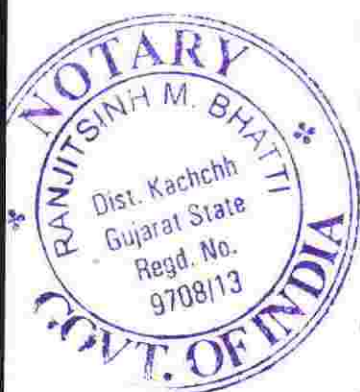


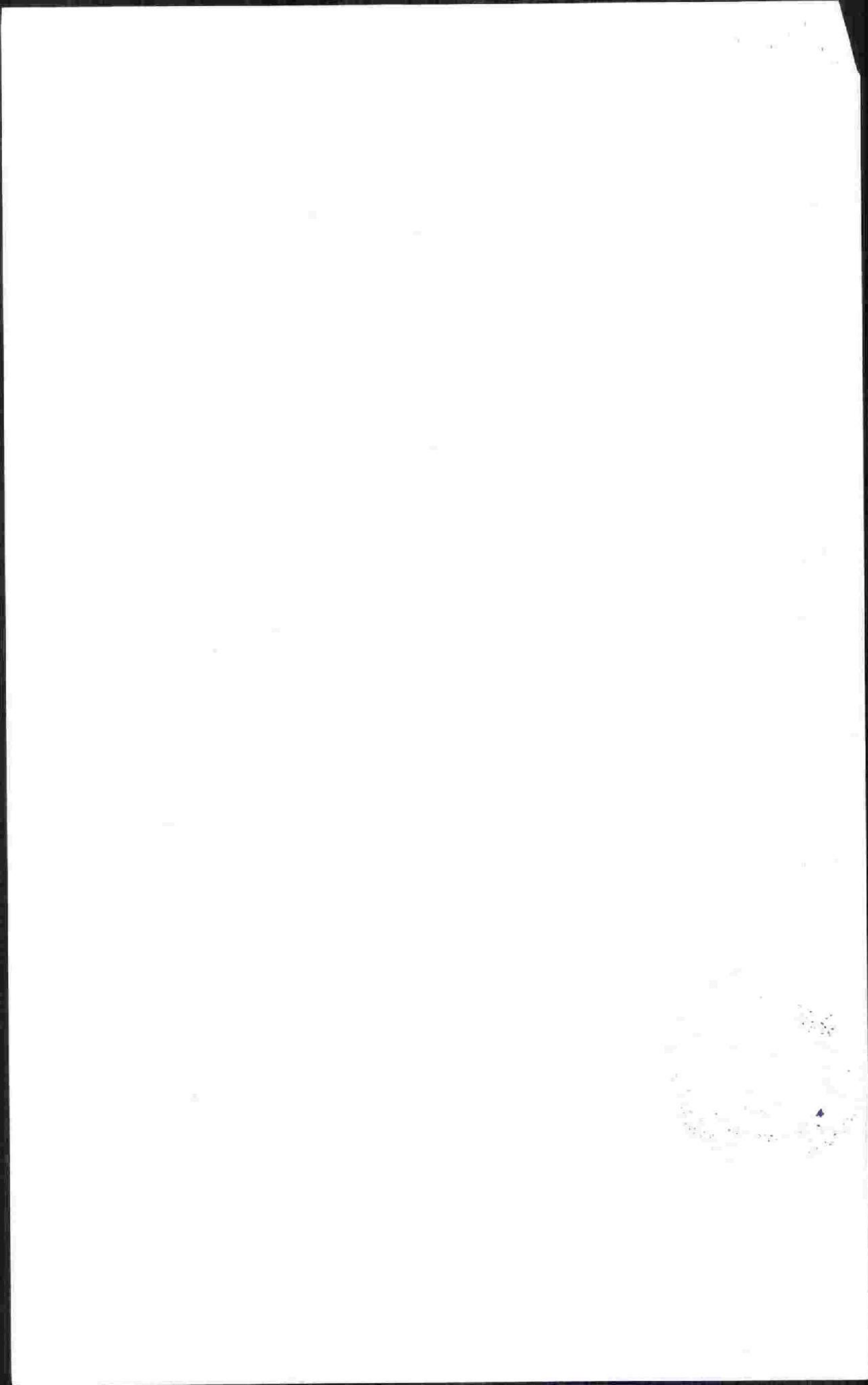
on the basis of data to be furnished by GUVNL and its subsidiary distribution companies.

8. That this Hon'ble Commission also directed the respondents herein to provide details for determination of additional surcharge for each 6 (six) monthly period as per Regulation 25 (3) of the GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011 (hereinafter "**Open Access Regulations**"). The Hon'ble Commission by its letter dated May 4, 2015 further directed GUVNL to submit a practicing Chartered Accountant's certificate, certifying the 6 months' data for calculation of additional surcharge. It is in this back ground that this Hon'ble Commission has been determining additional surcharge.

CONSPECTUS OF THE PRESENT PETITION

9. That the instant petition is being filed for altering the methodology for determination of additional surcharge being followed by this Hon'ble Commission as the said determination is not completely transparent, scientific and is also not in conformity with the provisions and principles enshrined under the Act. Thus, the present petition is being filed invoking the jurisdiction of this Hon'ble Commission under sections 42 (4), 61, 62, 66 and 86 of the Act read with Regulation 25 (3) of the Open Access Regulations read with the National Tariff Policy.
10. That the instant petition is a fresh petition and does not seek to challenge or unsettle the previous tariff orders or past determinations but only seeks to assist the Hon'ble Commission in enunciation of a scientific methodology for determination of Additional Surcharge being levied upon open access consumers within the State of Gujarat to be calculated in conformity with the principles enshrined under the Act for achieving the purpose stated thereto. As the present petition seeks only prospective relief, the present petition is maintainable in light of the law laid down by the Hon'ble Supreme Court of India in *Bharat Sanchar Nigam Ltd. and Another v. Union of India and Others*, (2006) 3 SCC 1.





Radhasoami Satsang Swami Bagh, Agra v. Commissioner of Income Tax, (1992) 1 SCC 659 and U.P. Power Corpn. Ltd. v. NTPC Ltd., (2009) 6 SCC 235 and by the Hon'ble Appellate Tribunal for Electricity (hereinafter "Appellate Tribunal") in its judgement dated January 13, 2009 in Appeal No. 133 of 2007 Delhi Transeo Ltd. v. Delhi Electricity Regulatory Commission and Ors.

That this petition seeks to highlight the fact that the open access per se has fallen down due to the unscientific, irrational and unjust methodology for determination of additional surcharge as being followed by this Hon'ble Commission. It is submitted that as per the data of Regional Energy Account (REA) report the FY 2016-2017, GUVNL was responsible for buying more than 6000 MUs of all power through short term market. Infact, the average quantum of power being bought by GUVNL has increased during current FY 2018-19, therefore, factually there cannot be any stranding of power due to open access consumers to justify the levy of Additional Surcharge.

11.2 Therefore, it is submitted that levy of unscientific Additional Surcharge despite the fact that GUVNL has been buying power on the short term and that the larger number of open access consumers have reduced compared to FY 13-14, shows that the methodology followed by this Hon'ble Commission is reducing competition by skewing the market conditions in favour of the discoms.

11.3 It is further submitted that the data submitted by the discoms for the purposes of calculation of Additional Surcharge is not put in public domain, and even the website of the GSLDC website does not work properly; therefore, there is no proper scrutiny of the data submitted for the purposes of calculation of Additional Surcharge and as such this lack of scrutiny of the said data is violative of the Open Access Regulations and the provisions of the Act which mandate transparency.

11.4 It is further submitted that the specific provision under the GERC Open access Regulation 25.(3) for obtaining objections from the stakeholders at large while determining the amount of additional Surcharge, has been overlooked



LEGAL FRAMEWORK

11. That the preamble of the Act is as under:

*"An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for **taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies** regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto."*
(Emphasis Supplied)

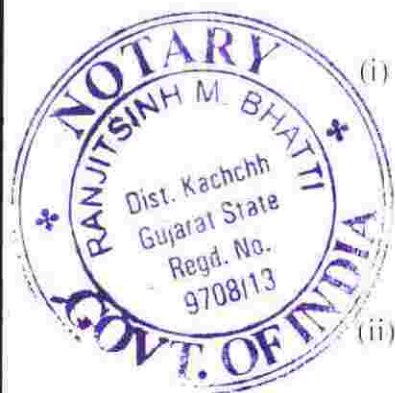
- 12.1 It is submitted that one of the main objective of the Act is to ensure consumer welfare and to ensure greater competition. It is submitted that a transparent and more rational determination of the Additional Surcharge for the open access consumers of the state of Gujarat will ensure the fulfilment of this objective prescribed under the Act.

12. That the principal provision for determination of Additional Surcharge is section 42 (4) of the Act which is reproduced below for ease of reference:

~42. ...
(4) *Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person **other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.***
... (Emphasis Supplied)

- 13.1 It is submitted that the pre-requisites for determination of Additional Surcharge, as prescribed under section 42 (4) are as under:

- (i) There should be a consumer or a class of consumers who have been permitted to receive electricity from a person other than the distribution licensee of his area of supply:
- (ii) Such consumer shall be liable to pay an **additional surcharge on charges of wheeling**:



(iii) The 'additional surcharge on charges of wheeling' may be specified by the State Commission; and

(iv) The said 'additional surcharge on charges of wheeling' will be determined to meet the fixed cost of such distribution licensee arising out of his obligation to supply.

13.2 It is submitted that the levy of additional surcharge on charges of wheeling is not mandatory and can only be levied to meet the fixed cost of such distribution licensee arising out of his obligation to supply. Therefore, the first pre-requisite is that it is to meet the fixed cost for supplying to that particular consumer or class of consumers and as it is part of fixed cost it should not be covered under the contract demand or wheeling charges. Further, the language used in the section is that the Additional Surcharge to be specified by the State Commission is an 'additional surcharge on charges of wheeling' and therefore, necessarily has to be in the nature and species of wheeling charges. Therefore, the definition of wheeling becomes essential for determining the true nature of Additional Surcharge. The definition of wheeling as provided under section 2 (76) is reproduced below for ease of reference:



"2(76) wheeling means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62" (Emphasis Supplied)

13.3 Thus, the nature of Additional Surcharge mandatorily has to take colour from definition of wheeling provided under the Act. In this regard reliance is placed upon the following judgements of the Hon'ble Supreme Court of India:

- (a) Sarojini Tea Co. (P) Ltd. v. Collector of Dibrugarh. (1992) 2 SCC 156, paragraph 16.
- (b) D.C.M. v. Rajasthan State Electricity Board. (1986) 2 SCC 431, paragraph 45.

- (c) Sai Bhaskar Iron Ltd. v. A.P. Electricity Regulatory Commission, (2016) 9 SCC 134, paragraphs 19, 20 and 21.
- (d) Indian Aluminium Co. v. State of Kerala, (1996) 7 SCC 637, paragraphs 27 and 28.

13. That the Central Government has been empowered under section 3 to frame the National Tariff Policy. The National Tariff Policy dated January 28, 2016 (hereinafter "NTP") provides as under with respect to the determination of Additional Surcharge:

"8.5.4 The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges." (Emphasis Supplied)

14.1 Without prejudice, it is submitted that as per the NTP the obligation for Additional Surcharge under section 42 (4) of the Act can only become applicable on the fulfilment of the following prerequisites, namely:

- (i) It should be conclusively demonstrated that the obligation of the licensee in terms of existing power purchase commitments has been and continues to be stranded. Therefore, the stranding of power purchase commitments should have been taking place continuously and should not be a temporary phenomenon and that it should be attributable to the universal supply obligation:
- (ii) Or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. Thus, if the stranding is continuing, the licensee is not in a position to determine/terminate the said contract; and
- (iii) The fixed costs related to network assets have to be recovered through wheeling charges, thus, no component of fixed assets should be loaded on to Additional Surcharge.

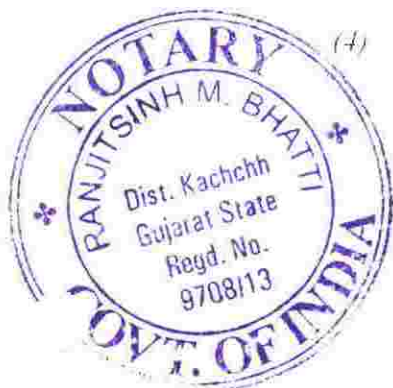


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14. That Regulation 25 of the Open Access Regulations provides for the determination methodology for calculating Additional Surcharge. Regulation 25 of the Open Access Regulations is reproduced below for ease of reference:

25. Additional Surcharge

- (1) *An open access customer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge on the charges of wheeling, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.*
- (2) *This additional surcharge shall become applicable only if the obligation of the licensee in terms of power purchase commitments has been and continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. However, the fixed costs related to network assets would be recovered through wheeling charges.*
- (3) *The distribution licensee shall submit to the Commission on six monthly basis, a detailed calculation statement of fixed cost which the licensee is incurring towards his obligation to supply. The Commission shall scrutinize the statement of calculation of fixed cost submitted by the distribution licensee and obtain objections, if any, and determine the amount of additional surcharge:*
Provided that any additional surcharge so determined by the Commission shall be applicable only to the new open access customers.
- (4) *Additional surcharge determined on Per Unit basis shall be payable, on monthly basis, by the open access customers based on the actual energy drawn during the month through open access:*
Provided that such additional surcharges shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.” (Emphasis Supplied)



- 15.1 It is submitted that this Hon'ble Commission, under the Open Access Regulations, has laid down the following prerequisites for the determination of Additional Surcharge:

- (1) Additional surcharge on the charges of wheeling, in addition to wheeling charges and cross-subsidy surcharge, shall be determined by this Hon'ble Commission to meet the fixed cost of distribution licensees arising out of their obligation to supply:
- (2) This Additional Surcharge shall become applicable only if the obligation of the licensee in terms of power purchase commitments has been and

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continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract:

- (3) The fixed costs related to network assets would be recovered through wheeling charges;
- (4) The distribution licensee shall submit to the Hon'ble Commission on six monthly basis, a detailed calculation statement of fixed cost which the licensee is incurring towards his obligation to supply;
- (5) The Hon'ble Commission shall scrutinize the statement of calculation of fixed cost submitted by the distribution licensees and obtain objections and determine the amount of Additional Surcharge after considering the objections;
- (6) The Additional Surcharge so determined by the Hon'ble Commission shall be applicable only to the new open access customers;
- (7) The Additional Surcharge determined on Per Unit basis shall be payable on monthly basis by the open access customers based on the actual energy drawn during the month through open access; and Additional Surcharge shall not be applicable on captive generation of power.

15.2 It is submitted that as the Open Access Regulations have been framed under section 181 of the Act, they have the force of law in light of the judgement of the Hon'ble Supreme Court of India in PTC v. CERC, 2010 (4) SCC 603,

15. That this Hon'ble Commission by its order dated March 12, 2014, in Petition No. 1302 of 2013 filed by GUVNL and its subsidiary distribution companies decided the methodology for calculation of Additional Surcharge.

16. That the present Petitioners seek to highlight the fact that the methodology devised and enunciated by this Hon'ble Commission does not take into account that the data should be made further reliable, as is being done by the Electricity Regulatory Commissions of Haryana and Rajasthan. Further, the distribution licensees should be also able to demonstrate conclusively that there is a continuous stranding of power. At present, the data being submitted has not been



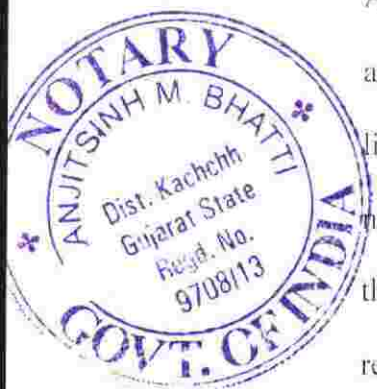
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put in public domain so as to provide sufficient time to the stakeholders to analyse and verify the same. In this regard it is important to note that the principles enshrined under sections 66 and 86 mandate greater transparency in determination of tariff as a virtue and a benchmark. Further the Open Access Regulations mandate public consultation for determination of Additional Surcharge and not putting the complete data in public domain violates the principle of effective consultation and therefore, is contrary to consumer and public interest. It is submitted that while determination of Additional Surcharge is important to compensate distribution licensees, the Hon'ble Commission being the apex regulator within the state of Gujarat, is also under an obligation under sections 61 and 86 to protect the interests of the consumers.

MERITS

17. That one of the fundamentals, rationale and basis for levy and determination of Additional Surcharge is that there should be stranding of power as a continuous and recurring fixed cost on account of open access. Further, if the distribution licensee is claiming that there is surplus power then there should not be any major purchase of power on a short term basis by the licensees. However, from the data available in the public domain, GUVNL has been purchasing the power regularly on a short term basis during last FY 17-18. The data available in the public domain where it can be seen that GUVNL is buying power on energy exchanges as well as through other means in the short-term market which is reproduced below:

Month	Power Exchanges (IEX & PXIL) (MU's)	Short term (including TAM) (MU's)	Total (MU's)
Apr'17	125	0	125
May'17	439	19	458
June'17	578	0	578
July'17	0	0	0
Aug'17	0	0	0
Sept'17	104	1	105
Oct'17	687	0	687
Nov'17	794	0	794



Vam

Dec'17	333	0	333
Jan'18	436	168	604
Feb'18	484	371	855
March'18	1099	510	1609
Total	5079	1069	6148

Source: REA

18.1 Further, it is submitted that for levy of Additional Surcharge, it needs to be conclusively demonstrated that the backing down of generation had been on account of power procured by consumers through open access. We have, tried to ascertain the reason of backing down of generation during last FY 17-18, however, the SLDC website only shows backing down of generation for current day and no historical data is available on the SLDC website. On analysis of the backing down data for one day i.e. 18/06/2018, we observe that 7544 MW was backed down from total installed capacity wherein only 1834 MW was backed down which was available for generation. These backing down were primarily due to commercial, operational and technical reasons such as; costly generation, coal shortages and other technical reasons. At no instance reason of backing down is mentioned as 'low demand' or 'consumer open access'. A copy of back down data of 18/06/2018 is annexed as **Annexure A-3**



It is fundamentally inconceivable that on one hand GUVNL is claiming to be power surplus and levying Additional Surcharge, whereas, on the other hand they are regularly buying power from the open market and the reason for backing down of generation has nothing to do with open access. In context of the foregoing, it is essential to ascertain the reason of backing down of generation during FY 17-18 while calculating Additional Surcharge and the present methodology of determination of additional surcharge nowhere captures this fundamental requirement for determination of additional surcharge which is only levied on case of backing down of generation due to open access.

18.2 It is submitted that in light of the principle laid down by the Hon'ble Appellate Tribunal by its judgement dated August 1, 2014 in **Appeal No. 38 of 2013**, Steel Furnace Association of India v. PSERC and Anr; wherein the Hon'ble Appellate

Tribunal was pleased to hold that where there were power cuts no compensatory charges like cross subsidy surcharge were payable, it is submitted that as the distribution licensees do not have adequate power, thus, no Additional Surcharge is payable by open access consumers.

PROPOSED METHODOLOGY

18. That in light of the above submissions, it is proposed as under:

- A. As the stranding of power purchase should have actually taken place and is likely to continue, only then should the Additional Surcharge should be proposed and determined. Therefore, the data should be reflective of the continuity and likelihood in stranding of the power purchase cost and should also be tried up regularly on MYT principles.
- B. Calculation of quantum of stranded power should be done looking at reasons of backing down for each fifteen minute time block. This practice is being followed by both Haryana and Rajasthan. Stranding of power for each time slot makes it possible to ascertain the reasons for stranding of power and is more scientific in nature and purpose.
- C. The Additional Surcharge ought only to be levied in case the distribution licensee has to **back down the generation due to open access** and is not able to recover fixed cost of such generation. To establish that the backing down of generation has been done by distribution licensees due to open access, following factors need be considered by this Hon'ble Commission:
 - i. **Purchase of power under short term market:** If the distribution licensee is buying power under short term market than it may be concluded that the distribution licensee is in either shortage situation or it is backing down generation due to economic reason (high cost). In both of this situation, there will not be any stranded capacity on account of open access, rather open access is helping distribution licensee in curbing shortages and averting need for



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purchase of costlier power i.e. power costing more than average power purchase cost of the Utility.

- ii. **Load shedding:** In case the distribution licensee is resorting to load shedding than again it can be inferred that it is in shortages thereby no stranded capacity can be claimed on account of open access as it would be absurd that on one hand consumers are not getting power and on the other hand distribution licensees are backing down generation.
- iii. **Purchase of renewable energy power under Renewable Purchase Obligations:** Distribution licensees are obligated to procure power from renewable energy sources which are must run sources. In such case, a distribution licensee may have to back down its conventional generation. In such a scenario open access cannot be held responsible for backing down of generation.
- iv. The assessment for Additional Surcharge should be carried out for each season. The period of 12 months in a financial year may be divided into three or more seasons based on shape of load curves. In case the distribution licensee may not be able to meet peak demand of the season then no additional surcharge ought to be imposed.
- v. The additional surcharge should be calculated based on actual parameters for the comparable past period and assumes that conditions would remain same for corresponding period next year. E.g. Apr-June for FY 16-17 is comparable with Apr-June of FY 17-18.
- vi. Capacity considered as available should not be the rated capacity but the actual capacity as demonstrated during the previous year testing of capacity as required. If such test as required was not done during the previous/current year, the de-rated capacity as actually dispatched during the current financial year should be considered.



- D. Considering all of the above factors, assessment of quantum stranded power attributable to Open Access consumers during each 15- minute time block of peak period of a season may be done as under:

$$SP = \text{Minimum } [(URS - STPP-REP -LS), OA]$$

Where

- ✓ **SP** is Stranded Power (MW) attributable to Open Access customers during the time block.
- ✓ **URS** is un-requisitioned power (MW) during the time block from various Power Stations with which distribution licensee has long-term PPA duly approved by this Hon'ble Commission.
- ✓ **LS** is the quantum (MW) of load shedding carried out or load restrictions imposed on various categories of consumers or areas during the time block.
- ✓ **STPP** is the short-term power purchase (MW) during the time block.
- ✓ **REP** is the renewable energy purchase (MW) during the time block against renewable purchase obligations.
- ✓ **OA** is the quantum of open access granted (MW) during the time block.

Load shedding or load restrictions in the area of distribution licensee and short-term power purchase including renewable power are subtracted from the un-requisitioned/back down power to arrive at actual stranded power during the time block. By using minimum of stranded power and open access quantum, it is ensured that only the power stranded because of open access consumers is used for assessment of Additional Surcharge.

Example:

1. Calculation of total URS Power

Time Block	Plant A (MW)	Plant B (MW)	Plant C (MW)	Plant D (MW)	Total URS (MW)
0.00-0.15	100	100	100	100	400
0.15-0.30	200	200	200	200	800

2. Calculation of stranded capacity due to open access in a Time Block

Time Block	OA Quantum (A)	URS (B)	LS (C)	STPP (D)	REP (E)	Stranded Power (SP) = B-C-D-E	Min of 'A' and 'SP' (MW)
0.00-0.15	500	400	50	100	20	230	230
0.15-0.30	500	800	50	50	50	650	500

- E. After assessment of total stranded power due to open access in a time block, the resultant quantum (MW) should be allocated amongst the generation plants starting with low variable cost. In other words, while allocating quantum, merit order should be followed. In the above example allocation of should be done in following manner:



Vam P. S.

Allocation of Stranded Capacity

Time Block	Plant A	Plant B	Plant C	Plant D	Total Stranded Power(SP) (MW)
Variable Cost (Rs./Kwh)	3.12	3.36	3.44	3.85	
0.00-0.15	100	100	30	0	230
0.15-0.30	200	200	100	0	500

F. Assessment of fixed cost of stranded power due to Open Access should be calculated in following manner:

1) Calculation of fixed cost of each plant in Rs./Unit:

			Plant A	Plant B	Plant C	Plant D
Fixed Cost (Cr. Rs.)	Z		350	210	380	126
Quantum approved in Tariff Order (MU)	Y		7000	5250	8400	3500
Fixed Cost (Rs/Unit)	Z/Y		0.5	0.4	0.45	0.36



Vann P. Bhatti

- 1) **Calculation of fixed cost of stranded power:** In the above example total fixed cost should be calculated by multiplying stranded power from each plant in a time block with the fixed cost (Rs./Unit) of such plant:
- 2) **Calculation of total recoverable Additional Surcharge:** The Recoverable Additional Surcharge should be arrived by adjusting revenue credited by generator (Rs.) against sale of un-

Time Block	Plant A	Plant B	Plant C	Plant D	Total fixed cost of Stranded Power (Rs.)
Fixed Cost (Rs./Unit)	0.5	0.4	0.45	0.36	
0.00-0.15	12500 [(100*1000*0.5)/4]	10000	3375	0.00	25875
0.15-0.30	25000	20000	11250	0.00	56250
	Total				82125

ned power.

Recoverable Additional Surcharge (Rs.)(RAC) = Total fixed cost of Stranded Power - Revenue credited by generator against sale of un-requisitioned power-Demand Charges

Example:

Let's assume that generator credited revenue of Rs. 2125 realized from sale of Un-requisitioned power and demand charges paid by OA consumers to Discom is Rs. 20,000..

Therefore,

$$RAC = 82125 - 2125 - 20000 = 62000 \text{ Rs.}$$

- 3) **Additional Surcharge to be levied on Open Access Consumers:**

$$\text{Additional Surcharge (Rs./Unit)} = RAC / \text{Open Access quantum}$$

In above example:

Open Access Quantum

Time Block	OA Quantum (A) (MW)	OA Quantum (Units) [A*1000/4]
0.00-0.15	500	125000
0.15-0.30	500	125000
	Total	250000

$$\text{Additional Surcharge} = 62000 / 250000 = 0.24 \text{ Rs/Unit}^*$$

*It is only illustration

PRAYER

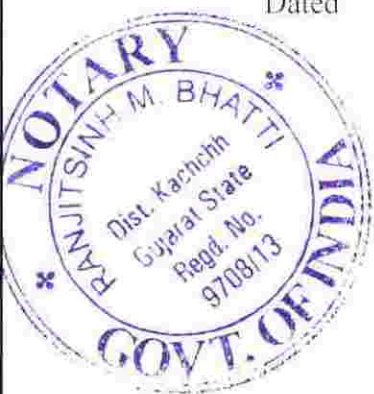
19. It is therefore most respectfully prayed that this Hon'ble Commission may be pleased to:

- (i) Admit the instant petition;
- (ii) Direct the respondent licensees to maintain 15 minute block wise data with details of backing down , un-requisitioned power, load shedding quantum, short-term power purchase, renewable energy purchase to ensure scientific and transparent determination of Additional Surcharge;
- (iii) Direct the respondent licensees to provide adequate data in a timely manner so as to enable larger public scrutiny in accordance with the Open Access Regulations and the Act;
- (iv) Determine the methodology regarding 'Additional Surcharge' in light of the submissions and methodology stated in the instant petition; and
- (v) Pass any further order(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the instant petition in the interest of justice, fair play and equity.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL EVER
DUTY BOUND PRAY

New Delhi

Dated



[Signature]
Petitioner - 2

[Signature]
Petitioners - ①

Through Counsel

[Signature]
Varun Pathak

Advocate

C-6/ 6545, Vasant Kunj,
New Delhi-110070.

SERIAL NO: 2460
 DATE: 14/7/18
 BOOK NO: 01
 PAGE NO: 108
 RANJITSINH M. BHATTI
 NOTARY
 GOVT. OF INDIA

21

BEFORE THE HON'BLE GUJARAT ELECTRICITY
 REGULATORY COMMISSION, AT AHMEDABAD
 ORIGINAL REGULATORY JURISDICTION

FILING NO.
 CASE NO.

IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy:

AND

Federation of Kutch Industries Associations & Anr.

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

AFFIDAVIT

I, Nimish Phadke, aged about 50 years s/o Prabhasankar Phadke, with office at Bhuj - Kutch do hereby solemnly affirm and state as under:

1. That I am Director of the Petitioner No. 1 in the abovementioned petition and as such and competent to swear the instant affidavit.
2. That I am conversant with the facts and circumstances of the instant petition and am duly authorized by Petitioner No. 1 to swear the instant affidavit based on the records of Petitioner No. 1 maintained in usual course of business.
3. That I have read the copy of the accompanying petition and the contents of the same may be treated as part and parcel of the instant affidavit and as such are not being repeated herein for sake of brevity.
4. That the contents of paragraphs _____ are based on the records of the Petitioner No. 1, paragraphs _____ are based on my personal knowledge and paragraphs _____ are based on legal advice received by me and believed to be true.
5. That no part of the instant affidavit is false and nothing material has been concealed therefrom.

VERIFICATION:

I, the above named Deponent do hereby verify that the facts stated in the above affidavit are true to my personal knowledge and belief being based on the records of the Petitioner No. 1 maintained in usual course of business. No part of the same is false and nothing material has been concealed therefrom.

Verified at Bhuj on this the _____ day of July, 2018.

18 JUL 2018

DEPONENT

DEPONENT

SOLEMNLY AFFIRMED
 BEFORE ME

RANJITSINH M. BHATTI
 NOTARY
 GOVT. OF INDIA
 18 JUL 2018



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**BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY
COMMISSION, AT AHMEDABAD
ORIGINAL REGULATORY JURISDICTION**

**FILING NO.
CASE NO.**

IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy;

AND

Federation of Gujarat Industries

Regd. No. ... 9728
Date: 20/07/2018

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

AFFIDAVIT

I, Mr. Nitesh Patel, aged about 48 years s/o Shri Natverlal N. Patel, with office at FGI Business Centre, Gotri - Sevasi Road, Khanpur, Near Sevasi, Vadodara - 391101 do hereby solemnly affirm and state as under:

1. That I am Secretary General of the Petitioner No. 2 in the abovementioned petition and as such and competent to swear the instant affidavit.
2. That I am conversant with the facts and circumstances of the instant petition and am duly authorized by Petitioner No. 2 to swear the instant affidavit based on the records of Petitioner No. 2 maintained in usual course of business.
3. That I have read the copy of the accompanying petition and the contents of the same may be treated as part and parcel of the instant affidavit and as such are not being repeated herein for sake of brevity.
4. That the contents of paragraphs _____ are based on the records of the Petitioner No. 2, paragraphs are based on my personal knowledge and paragraphs are based on legal advice received by me and believed to be true.
5. That no part of the instant affidavit is false and nothing material has been concealed therefrom.

Identified
[Signature]

VERIFICATION:

[Signature]
DEPONENT
NITESH PATEL
Secretary General
FOR Federation of Gujarat Industries

I, the above named Deponent do hereby verify that the facts stated in the above affidavit are true to my personal knowledge and belief being based on the records of the Petitioner No. 2 maintained in usual course of business. No part of the same is false and nothing material has been concealed therefrom.

Verified at Vadodara on 20th July, 2018.

[Signature]
DEPONENT

NITESH PATEL
Secretary General
FOR Federation of Gujarat Industries

Solamnly Affirmed/Declared
Swon Before me by *Nitesh Patel*

[Signature]
GIRISH N. THAKKAR
NOTARY (Govt. of Gujarat)



My Commission Expires
on 25-Feb-2019
GIRISH N. THAKKAR
NOTARY (Govt. of Gujarat)



20/07/2018



FEDERATION OF KUTCH INDUSTRIES ASSOCIATIONS

Certified to be a true copy of the resolution passed at the meeting of the board of directors of FOKIA held on 27/06/2018 at its corporate and registered office 5th Patel Towers, Near Jaynagar Bus Stop, Bhuj-Mirzapur Road,, BHUJ, Gujarat, 370001

Chairman informed to the board about methodology for determination of additional Surcharge under sections 42 (4), 61, 62, 66 and 66 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy recently and it is advisable and in the interest of the members to file petition before honourable Gujarat Electricity Regulatory Commission (GERC) Ahmedabad. It was also discussed to authorize Mr Nimish Phadke, Principal Director of the Company to sign the petition along with other petitioners in the matter.

After due discussion following resolution was passed unanimously.

RESOLVED THAT Mr Nimish P Phadke, Director of the Company be and is hereby authorized to to institute, defend, prosecute, conduct, compound, refer to arbitration and abandon and to compromise legal or other proceedings, claims and disputes by or against the company or in which the company may be concerned or interested engage advocates / legal counsels as may be required from time to time and to sign vakalats, complaints, affidavits, petition etc. He is also hereby authorized to join with any other party as a party to any action, suit, petition or other legal proceeding whether as plaintiff or defendant or appellant or respondent and to interplead, claim set-off or make a counter claim, and to issue or cause to be issued third party notices and to do all such acts, deeds and things as may be deem necessary in connection with all legal matters of the Company.

// certified to be a true copy //

Company registered under section-8, of Companies Act 2013, Registration No: RD/25(I)48/11/06/3095
Corporate & Regd. Office : 5th Patel Towers, Near Jaynagar Bus Stop, Bhuj-Mirjapur Road, Bhuj-Kutch
PIN : 370001, Phone: 02832 -230080,230081 Mail : bhuji@fokia.org; info@fokia.org
Gandhidham Office : office no.216, 2nd Floor, Sidhivinayak Complex, 01 in Ward No.6
Gandhidham - Kutch PIN :370201 Mail : gim1@fokia.org; gim2@fokia.org



FEDERATION OF GUJARAT INDUSTRIES 2/5

Annexure A-2

ISO 9001:2015 Certified | 'Gold Grade' accredited BMO by NABET & QCI

FGI Business Centre, Gotri-Sevasi Road, Khanpur, Near Sevasi, Vadodara - 391101, Gujarat, India
Tel : + 91 265-2372901-02 Fax : +91 265-2372904 E-mail : info@fgi.co.in, Website : www.fgiindia.com

FGI / Resolution / 2018 / 03

6th July, 2018

Resolution

It is hereby resolved in Managing Committee meeting of Federation of Gujarat Industries held on 06th July 2018 that "Mr. Nitesh Patel, Secretary General, is hereby authorized to proceed ahead in completion of all necessary formalities for filing of Petition at GERC in matter of methodology for determination of Additional Surcharge for Open Access user Consumers."

Further resolved, that Mr. Nitesh Patel, Secretary General is authorized to sign all documents in connection with filing of the Petition in aforesaid matter."

Nitesh Patel
Secretary General

SR. NO.	UNIT	CAP (MW)	OUTAGE DTD	OUTAGE TIME	FORCE	PLAN (MW)	AVAIL- LABLE	SCHEDULE DT.	REVISED EXPECTED DATE	Reason
1	DGB-STG3	130	03/06/2018	00:00			130			RSD Costly generation
2	DGB-GT3	246.1	03/06/2018	00:00						RSD Costly generation
3	UTPS-6	500	31/05/2018	11:40				02 JUN 18	04 JULY 18	Electrical cable problem
4	DGB-GT2	72	07/06/2018	21:48						RSD Costly generation
5	DGB-STG2	40	07/06/2018	21:45			40			RSD Costly generation
6	KLTPS-3	75	13/06/2018	18:54				23/06/2018		coal mill problem
7	WTPS-5	210	18/06/2018	10:45				21.06.2018		BTL
8	DGB-STG1	39	18/06/2018	20:56						RSD Costly generation
		Total				0				
1	UNOSUGEN	382(0)	29 FEB 16	19:39						RSD Load Regulation
2	DGEN 52	400(0)	31-MAR-16	23:58						RSD Load regulation
3	DGEN 53	400(0)	31-MAR-16	21:45						RSD Load regulation
4	DGEN-51	388(0)	31 MAR 16	19:35						RSD
5	BECL-2	250	22/08/2017	16:34				23 SEP 17	UNCERTAIN	OEM BHEL pending work, lignite shortage & water shortage
6	APL-6	660	20/10/2017	20:20				07 NOV 17	UNCERTAIN	Coal shortage problem
7	EPGL-2	600	24/10/2017	20:25				22 NOV 17	UNCERTAIN	Coal shortage
8	APL-5	660	02/11/2017	23:43				26 Nov 17	UNCERTAIN	Coal shortage problem
9	APL-1	330	07/01/2018	6:46				10 JAN 18	UNCERTAIN	Coal shortage
10	APL-2	330	20/01/2018	22:30				UNCERTAIN		Coal shortage
11	EPGL-1	500	23/01/2018	18:51				UNCERTAIN		Coal shortage
12	GIPCL STAGE-II-GT4	109	01/03/2018	00:00						No purchase from 1st March 18
13	GIPCL STAGE-II-STG	56	01/03/2018	00:00						No purchase from 1st March 18
14	GIPCL STAGE-I-GT3	32		14:00						RSD costly generation
15		52	01/06/2018	00:00						



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	GSEG STAGE-I- STG								RSD/ Costly generation
16	GSEG STAGE-I- GT1	52	01/06/2018	00:00					RSD/ Costly generation
17	GSEG STAGE-I- GT2	52	01/06/2018	00:00			52		RSD/ Costly generation
18	APL-3	330	25/05/2018	5:55				UNCERTAIN	Coal shortage
19	GSEG STAGE-II- GT1	222.43	02/06/2018	00:00			222		RSD
20	GPPC STG2	129	29/05/2018	19:31					PG test preparedness
21	GPPC GT2	222.43	29/05/2018	19:42					PG test preparedness
22	GSEG STAGE-II- STG1	129	02/06/2018	0:00			129		RSD costly gas
23	GPEC-GT2	138	18/06/2018	18:13			138		RSD
24	GPEC-STG	241	18/06/2018	21:38			241		RSD costly gas
25	GPEC-GT3	138	18/06/2018	21:45			138		RSD costly gas
26	GPEC-GT1	138	18/06/2018	19:58			138		RSD costly gas
	Total					0	1192		

CENTRAL PLANT

1	KAPP-2	220 (63)	01-JUL-15	14:09				31-AUG-15	01 September 18	Reactor channel problem
2	KAPP-1	220	11 MAR 16	09:00				01-MAY-16	01 December 18	Leakage in primary heat transfer system
3	CGPL-5	830	15/03/2018	1:37				21.03.2018	07/07/2018	ext. HP Heater tube leakage
4	MSTPS-2	500	21/05/2018	0:00		120		17/06/2018	25 JUN 18	AOH
5	KAWAS-2B	106	03/06/2018	10:32			20			RSD/ costly generation
6	KAWAS-2A	106	04/06/2018	11:20			10			RSD/ costly generation
7	KAWAS-2C	116	04/06/2018	11:26			11			RSD/ costly generation
8	JGPP-GT3	144.3	05/06/2018	3:31			20			RSD/ costly generation
9	CGPL-1	830	09/06/2018	1:32				03 JULY 18		HP TURBINE SREAM LEAKAGE
10	SIPAT-2	660	16/06/2018	3:59		180		25/07/2018		AOH
11	VSTPS-8	500	17/06/2018	18:45						BTL
12	APL-8	660	18/06/2018	23:38						APH-A Gear box abnormal sound & oil leakage
	Total					300				
	GRAND TOTAL					300	1894			



Van Pham

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BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY COMMISSION, AT
AHMEDABAD
ORIGINAL REGULATORY JURISDICTION

FILING NO.
CASE NO.

IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy:

AND

Federation of Kutch Industries Associations & Anr.

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

KNOW ALL to whom these presents shall come that I, Nimish Phadke, aged about 50, years s/o Prbhasankar Phadke, with office at Bhuj - Kutch, do hereby appoint on behalf of Petitioner No. 1, Federation of Kutch Industries Associations:

Varun Pathak [D/460/2007]

C-6/6545, Vasant Kunj, New Delhi - 110070.

Mobile: 9818990029, 9811892466

Email: varun.pathak@varunpathak.com.

I/We (hereinafter called the advocate/s) to be my/our Advocates in the above noted case and authorize them):-

1. To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/us
2. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petition, or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
3. To file and take back documents to admit and/or deny the documents of opposite party.
4. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
5. To take execution proceedings.
6. To deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
7. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.
8. And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.
9. And I/We undertake that I/we or my/our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.
10. And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.
11. And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid, I/we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the

18 JUL 2018



- 39 -

advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof

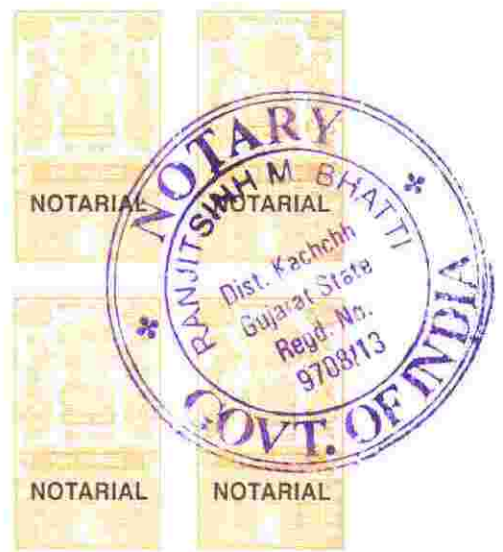
IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this day of July, 2018.

Accepted subject to the terms of fees.

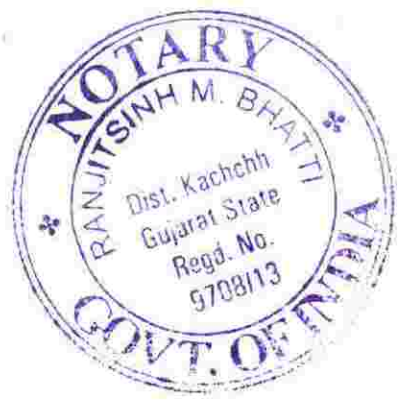
[Signature]
CLIENT

18 JUL 2018
ADVOCATE'S *[Signature]*
D/460 Post
Bny-10124

SERIAL NO. :	2439
DATE	18/7/18
BOOK NO. :	01
PAGE NO. :	108
<i>[Signature]</i>	
RANJITSINH M. BHATTI NOTARY GOVT. OF INDIA	



BEFORE ME
[Signature]
RANJITSINH M. BHATTI
NOTARY
GOVT. OF INDIA
18 JUL 2018



IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy:

AND

Federation of Gujarat Industries

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

KNOW ALL to whom these presents shall come that I, Mr. Nitesh Patel, aged about 48 years s/o Shri Natverlal N. Patel, with office at FGI Business Centre, Gotri - Sevasi Road, Khanpur, Near Sevasi, Vadodara - 391101, do hereby appoint on behalf of Petitioner No. 2, **Federation of Gujarat Industries:**

Varun Pathak [D/460/2007]

C-6/6545, Vasant Kunj, New Delhi - 110070.

Mobile: 9818990029, 9811892466.

Email: varun.pathak@varunpathak.com.

(Herein after called the advocate/s) to be my/our Advocates in the above noted case and authorize them):-

1. To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court Including High Court subject to payment of fees separately for each Court by me/ us.
2. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
3. To file and take back documents to admit and/or deny the documents of opposite party.
4. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
5. To take execution proceedings.
6. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
7. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.
8. And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.
9. And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.
10. And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.
11. And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on 20th July, 2018.

Accepted subject to the terms of fees.

ADVOCATE'S

Varun Pathak
D/460/2007



Nitesh Patel
Nitesh Patel
Secretary General
FGI, Vadodara

Nitesh Patel
NITESH PATEL
Secretary General
Federation of Gujarat Industries

September 6, 2018

To,

Shri. Roopwant Singh, IAS,

Secretary, Gujarat Electricity Regulatory Commission,
6th Floor, GIFT ONE, Gandhinagar – 382 355, Gujarat, India.

Reference: Letter dated August 18, 2018 and numbered as GERC/Legal/2018 No. 1449.

Subject: Deficiency in the Petition filed before the Commission.

Respected Sir,

Please find attached the affidavits with the requisite undertaking requested in the, abovementioned letter. Request you to replace the current affidavits with the enclosed affidavits so that the defects may be cured, and the petition may be listed at the earliest.

Request you to list the matter at the earliest, if possible on a Saturday as the counsel for the Petitioners has to travel from New Delhi.

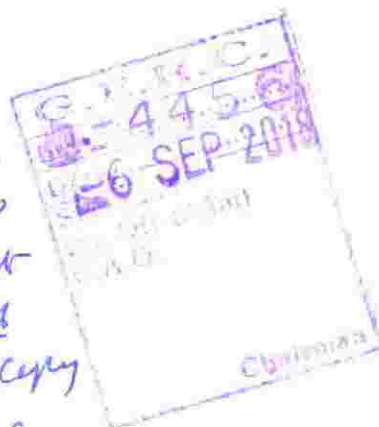
Thanking you,

Yours sincerely,

Tarsem Rana
Tarsem Rana

Clerk of Varun Pathak.

Executive
Legal Officer
keep
in select
file and
please copy
to the
Commissioner
and place
Joshi
7/9/2018



**BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY
COMMISSION, AT AHMEDABAD
ORIGINAL REGULATORY JURISDICTION**

**FILING NO.
CASE NO.**

IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy:

AND

Federation of Kutch Industries Associations & Anr.

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

AFFIDAVIT

SERIAL NO. :	2988
DATE :	27/8/18
BOOK NO. :	01
PAGE NO. :	130
...Petitioners	
RANJITSINH M. BHATTI NOTARY GOVT. OF INDIA	

I, Nimish Phadke, aged about 50 years do Prabhakar Phadke, with office at Bhuj - Kutch do hereby solemnly affirm and state as under:

1. That I am Director of the Petitioner No. 1 in the abovementioned petition and as such and competent to swear the instant affidavit.
2. That I am conversant with the facts and circumstances of the instant petition and am duly authorized by Petitioner No. 1 to swear the instant affidavit based on the records of Petitioner No. 1 maintained in usual course of business.
3. That I have read the copy of the accompanying petition and the contents of the same may be treated as part and parcel of the instant affidavit and as such are not being repeated herein for sake of brevity.
4. That no part of the instant affidavit is false and nothing material has been concealed therefrom.
5. That the subject matter of the petition has not been raised by the Petitioner No. 1 before any other competent forum, and that no other competent forum is currently seized of the matter or has passed any orders in relation thereto.

DEPONENT

VERIFICATION:

I, the above named Deponent do hereby verify that the facts stated in the above affidavit are true to my personal knowledge and belief being based on the records of the Petitioner No. 1 maintained in usual course of business. No part of the same is false and nothing material has been concealed therefrom.

Verified at Bhuj on this the _____ day of August, 2018.

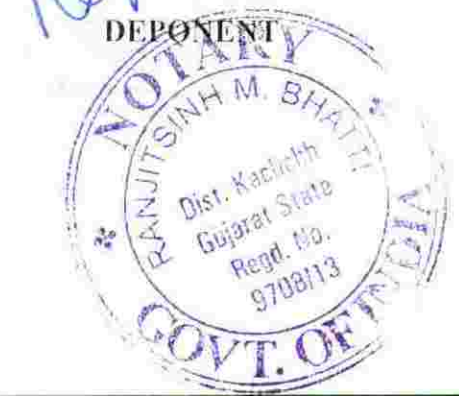
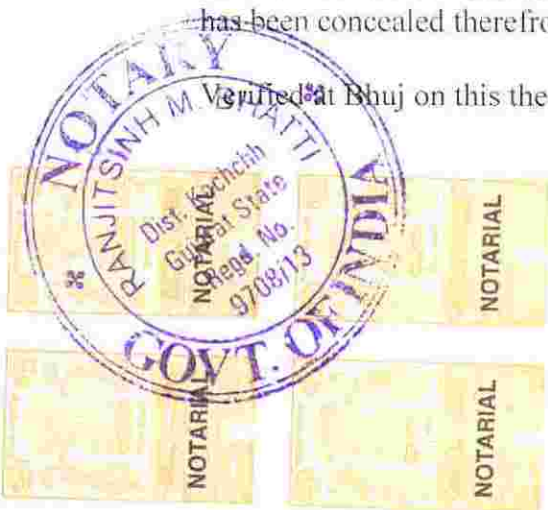
Bhuj

**SOLEMNLY AFFIRMED
BEFORE ME**

RANJITSINH M. BHATTI
NOTARY
GOVT. OF INDIA

27 AUG 2018

DEPONENT



33

**BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY
COMMISSION, AT AHMEDABAD
ORIGINAL REGULATORY JURISDICTION**

**FILING NO.
CASE NO.**

IN THE MATTER OF:

Methodology for determination of Additional Surcharge under sections 42 (4), 61, 62, 66 and 86 of the Electricity Act, 2003 read with Regulation 25 (3) of the GERC (Terms And Conditions Of Intra-State Open Access) Regulations, 2011 read with the National Tariff Policy:

AND

Federation of Gujarat Industries

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

Regd. No.:... 11588

Date: 24/08/2018

...Petitioners

AFFIDAVIT

I, Mr. Nitesh Patel, aged about 48 years s/o Shri Natverlal N. Patel, with office at FGI Business Centre, Gotri - Sevasi Road, Khanpur, Near Sevasi, Vadodara - 391101 do hereby solemnly affirm and state as under:

1. That I am Secretary General of the Petitioner No. 2 in the abovementioned petition and as such and competent to swear the instant affidavit.
2. That I am conversant with the facts and circumstances of the instant petition and am duly authorized by Petitioner No. 2 to swear the instant affidavit based on the records of Petitioner No. 2 maintained in usual course of business.
3. That I have read the copy of the accompanying petition and the contents of the same may be treated as part and parcel of the instant affidavit and as such are not being repeated herein for sake of brevity.
4. That no part of the instant affidavit is false and nothing material has been concealed therefrom.
5. That the subject matter of the petition has not been raised by the Petitioner No. 2 before any other competent forum, and that no other competent forum is currently seized of the matter or has passed any orders in relation thereto.

VERIFICATION:

I, the above named Deponent do hereby verify that the facts stated in the above affidavit are true to my personal knowledge and belief being based on the records of the Petitioner No. 2 maintained in usual course of business. No part of the same is false and nothing material has been concealed therefrom.

Verified at Vadodara on 24th August, 2018.

[Signature]
DEPONENT
NITESH PATEL
Secretary General
Federation of Gujarat Industries

DEPONENT
FOR FGL

NITESH PATEL
Secretary General
Federation of Gujarat Industries

Solemnly Affirmed/Declared
Sworn Before me by

[Signature]
GIRISH N. THAKKAR
NOTARY (Govt of Gujarat)

24/08/2018



