J.WDMS NO:- 662361/GERC/2018

34

Wasim Ansari

From: GERC <gerc@gercin.org>
Sent: 19 November 2018 12:03
To: pandeysr@gercin.org
Cc: 'Wasim Ansari'
Subject: FW: Petition No. 1747 of 2018

For kind information pl.
- Hon'ble Chairman
- " Member
- " Member
- Secretary

20/11/18

From: Varun Pathak <varun.pathak@varunpathak.com>
Sent: 17 November 2018 11:20 AM
To: sldcabt@gmail.com
Cc: gerc@gercin.org
Subject: Re: Petition No. 1747 of 2018

Dear Sir,

. light of the law laid down by the Supreme Court of India in Central Electricity Regulatory Commission *v.* National Hydroelectric Power Corporation Ltd [(2010) 10 SCC 280] service by email is valid service. This is also captured by the provisions of the Information and Technology Act and other orders passed following the above judgement.

However, I have sent a hard copy of the petition **again** by speed post today itself.

Request you to file your response based on the scanned copy of the petition.

Best regards.

Varun Pathak.

On Sat, 17 Nov 2018 at 10:31, SLDC ABT <sldcabt@gmail.com> wrote:

Dear Sir,

Plz provide hardcopy of the said petition.
With regards.

SLDC

CFWCs to: The Secretory, GERC.... for kind information.

G.E.R.C. 5844 19 NOV 2018 Dy. Dir (Adm) C.A.O. Chairman

Executive Legal Services keep on record

Legal 19/11

On Fri, Nov 16, 2018 at 7:43 PM Varun Pathak <varun.pathak@varunpathak.com> wrote:

Dear Sirs,

Please find attached the scanned copy of the Petition No. 1747 of 2018. This is by way of electronic service by the Petitioners.

Best regards.

Varun Pathak.

JWDMS NO:- 662383|GERC|2018

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Wasim Ansari

From: GERC <gerc@gercin.org>
Sent: 19 November 2018 12:03
To: pandeysr@gercin.org
Cc: 'Wasim Ansari'
Subject: FW: Petition No. 1747 of 2018

From: SLDC ABT <sldcabt@gmail.com>
Sent: 17 November 2018 10:32 AM
To: varun.pathak@varunpathak.com
Cc: GERC <gerc@gercin.org>
Subject: Re: Petition No. 1747 of 2018

Dear Sir,

Plz provide hardcopy of the said petition.
With regards.

SLDC

CFWCs to: The Secretory, GERC.... for kind information.

On Fri, Nov 16, 2018 at 7:43 PM Varun Pathak <varun.pathak@varunpathak.com> wrote:

Dear Sirs,

Please find attached the scanned copy of the Petition No. 1747 of 2018. This is by way of electronic service by the Petitioners.

Best regards.

Varun Pathak.

Executive legal
[illegible]

20/11/2018

G.E.R.C.
5845
19 NOV 2018
Chairman

Legal
19/11

GUJARAT ENERGY TRANSMISSION CORPORATION LIMITED

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CIN No. U40100GJ1999SGC036018

STATE LOAD DESPATCH CENTRE

132Kv Gotri S/s Compound, Gotri Road, Vadodara-390021.

Telephone No.(0265) 2352103 Fax No.(0265) 2352019

Web: www.sldcguj.com, e-Mail : sldcabt@gmail.com

No: GETCO/SLDC/ FKIA/ 1218 Date: 15th Nov'18

By Speed Post

To,

1) Federation of Kutch Industries Associations,
5th Patel Towers,Nr Jaynagar BusStop,
Bhuj Mirzapur road,Bhuj-370001,Kutchh,Gujarat

2) Federation of Gujarat Industries,
FGI Buisness Centre,Gotri Sevasi Road,
Khanpur ,Nr Sevasi,Vadodara-391101

Subject: Petition no **1747/2018** in the matter of methodology of determination of additional surcharges.

Ref: GERC/Legal/2018/1771 dtd 8.10.18.

Dear Sir,

With reference to above captioned subject and letter under reference, it is to inform that this office (i.e SLDC) has not received copy of petition till this date, so we are unable to file reply in timeframe mentioned in above referred letter dtd 8.10.18 of Hon'ble GERC.

This is for your information and needful action.

Thanking you,

Yours faithfully,

For **State Load Dispatch Centre-Gujarat,**

15/11

(B B Mehta)
Chief Engineer (SLDC)

CFWCs to:
The Secretary,
Gujarat Electricity Regulatory Commission,
6th Floor, GIFT One Road 5C, Zone 5, GIFT CITY
Gandhinagar - 382355
..... For kind information.

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GUJARAT URJA VIKAS NIGAM LIMITED

Sardar Patel Vidyut Bhavan, Race Course, Vadodara 390007
Phone (0265) (Direct), 2334751 PBX : (0265) 2310582-86
Fax : (0265) 2344543, 2337918, 2338164
Web : www.guvnl.com
CIN U40109GJ2004SGC045195

Ref.No.: GUVNL/COM/Additional Surcharge/ 1269 **Date :** 15/12/2018

To,
The Secretary
Gujarat Electricity Regulatory Commission
6th Floor, GIFT ONE,
Road 5-C, Zone- 5,
Gandhinagar – 382 355

By FAX 079 -23602360, 2054/55

Sub: Reply to the Petition No. 1747 of 2018 filed by Federation of Kutch Industries Associations (FOKIA).

Sir,

Anent to the above cited subject, please find enclosed herewith Reply on Affidavit (five copies original plus four) in the matter of Petition No. 1747 of 2018 filed by Federation of Kutch Industries Associations (FOKIA).

Thanking you,

Yours faithfully,

(K. P. Jangid)
General Manager (COM)

Encl: As above

Copy to,

Federation of Kutch Industries Associations,
5th Patel Towers, Near Jaynagar bus Stop,
Bhuj-Mirzapur Road,
Bhuj, Kutch – 370 001

Executive legal Sri
warn keep
in relevant
file and
provide
Copy to the
Commission
17/12/2018

No 63281
17 DEC 2018

BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION

Petition No. 1747 of 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 Gujarat Electricity Regulatory Commission (Terms and Conditions of Intra State Open Access) Regulations, 2011 read with the National Tariff Policy

AND

IN THE MATTER OF:

Federation of Kutch Industries Association &Anr - Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Others - Respondents

REPLY ON BEHALF OF RESPONDENTS NO. 1 TO 5 TO THE PETITION

MOST RESPECTFULLY SHOWETH:

Preliminary Submissions:

1. The matter in issue relates to the methodology for determination of Additional Surcharge payable by the Open Access Customers i.e. persons who seek Open Access to procure electricity from sources other than the Distribution Licensees in the area where the premises of the person is situated.

2. Before dealing para-wise of the petition filed, the Answering Respondents submit that it would be relevant to place the following Preliminary Submissions.

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3. At the outset, it is submitted that the Respondents No. 1 to 5 herein are also filing a petition seeking for modification in the methodology/formula for determination of Additional Surcharge under Section 42 (4) and 86 of the Electricity Act, 2003 and Regulation 25 (3) of the GERC (Terms and Conditions of Intra State Open Access) Regulations, 2011 (herein after referred to **`Open Access Regulations, 2011')**. The Answering Respondents would crave leave to refer to the averments and statements contained in the said petition at the time of the hearing. The Answering Respondents have dealt in detail on the principle and methodology to be followed for determination of Additional Surcharge in accordance with law applicable. The said petition has been filed by the Respondents in pursuance to the Order of the Hon'ble Appellate Tribunal for Electricity dated 01.10.2018 passed in Appeal No. 140 of 2014, whereby the Hon'ble Appellate Tribunal has given the liberty to the Answering Respondents to file a petition before the Hon'ble Commission seeking for revision in the methodology for determination of Additional Surcharge applicable for future period.

4. The Answering Respondents submit that the governing law for consideration of the determination of Additional Surcharge is summarized as under:

a. Section 42(4) of the Electricity Act, 2003

> *"**Section 42. (Duties of distribution licensee and open access)**: --- (1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.*
>
> ....
>
> *(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."*

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b. Section 43 of the Electricity Act, 2003

*"**Section 43. (Duty to supply on request)** - (1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:*

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

Explanation.- For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances."

c. Regulation 25 of the Gujarat Electricity Regulatory Commission (Terms and Conditions of Intra-State Open Access) Regulations 2011 (hereinafter referred to as **'Open Access Regulations'**)

"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

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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"

d. National Electricity Policy 2005 notified by the Central Government in exercise of powers under Section 3:

"5.8.3 .... An additional surcharge may also be levied under sub-section (4) of Section 42 for meeting the fixed cost of the distribution licensee arising out of his obligation to supply in cases where consumers are allowed open access. The amount of surcharge and additional surcharge levied from consumers who are permitted open access should not become so onerous that it eliminates competition that is intended to be fostered in generation and supply of power directly to consumers through the provision of Open Access under Section 42(2) of the Act. Further it is essential that the Surcharge be reduced progressively in step with the

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reduction of cross-subsidies as foreseen in Section 42(2) of the Electricity Act 2003."

e. National Tariff Policy 2016 notified by the Central Government again in exercise of power under Section 3 of the Electricity Act, 2003:

8.5 Cross-subsidy surcharge and additional surcharge for open access

....

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.

f. The law laid by the Hon'ble Supreme Court in SESA Sterlite Limited v Orissa Electricity Regulatory Commission (2014) 8 SCC 444. The Hon'ble Supreme Court has analyzed the concept of additional surcharge, along with the concept of cross subsidy surcharge and has considered the objective of such surcharges inter alia as under:

"(3) CSS: Its Rationale

25. The issue of open access surcharge is very crucial and implementation of the provision of open access depends on judicious determination of surcharge by the State Commissions. There are two aspects to the concept of surcharge - one, the cross-subsidy surcharge i.e. the surcharge meant to take care of the requirements of current levels of cross-subsidy, and the other, the additional surcharge to meet the fixed cost of the distribution licensee arising out of his obligation to supply. The presumption, normally is that generally the bulk consumers would avail of open access, who also pay at relatively higher rates. As such, their exit would necessarily have adverse effect on the finances of the existing licensee, primarily on two counts - one, on its ability to cross-subsidise the vulnerable sections of society and the other, in terms of recovery of the fixed

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cost such licensee might have incurred as part of his obligation to supply electricity to that consumer on demand (stranded costs). The mechanism of surcharge is meant to compensate the licensee for both these aspects.

26. Through this provision of open access, the law thus balances the right of the consumers to procure power from a source of his choice and the legitimate claims/interests of the existing licensees. Apart from ensuring freedom to the consumers, the provision of open access is expected to encourage competition amongst the suppliers and also to put pressure on the existing utilities to improve their performance in terms of quality and price of supply so as to ensure that the consumers do not go out of their fold to get supply from some other source.

27. With this open access policy, the consumer is given a choice to take electricity from any Distribution Licensee. However, at the same time the Act makes provision of surcharge for taking care of current level of cross subsidy. Thus, the State Electricity Regulatory Commissions are authorized to frame open access in distribution in phases with surcharge for:(a) Current level of cross subsidy to be gradually phased out along with cross subsidies; and (b) obligation to supply.

28. Therefore, in the aforesaid circumstances though CSS is payable by the Consumer to the Distribution Licensee of the area in question when it decides not to take supply from that company but to avail it from another distribution licensee. In nutshell, CSS is a compensation to the distribution licensee irrespective of the fact whether its line is used or not, in view of the fact that, but for the open access the consumer would pay tariff applicable for supply which would include an element of cross subsidy surchargeon certain other categories of consumers. What is important is that a consumer situated in an area is bound to contribute to subsidizing a low end consumer if he falls in the category of subsidizing consumer. Once a cross subsidy surcharge is fixed for an area it is liable to be paid and such payment will be used for meeting the current levels of cross subsidy within the area. A fortiorari, even a licensee which purchases electricity for its own consumption either through a "dedicated transmission line" or through "open access" would be liable to pay Cross Subsidy Surcharge under the Act.

Thus, Cross Subsidy Surcharge, broadly speaking, is the charge payable by a consumer who opt to avail power supply through open access from someone other than such Distribution licensee in whose area it is situated. Such surcharge is meant to compensate such Distribution licensee from the loss of cross subsidy that such Distribution licensee would suffer by reason of the consumer taking supply from someone other than such Distribution licensee."

The above principles laid down by the Hon'ble Supreme Court in terms of Article 141 of the Constitution of India is binding.

g. Decision of this Hon'ble Appellate Tribunal in Maharashtra State Electricity Distribution Company Limited v Maharashtra Electricity Regulatory Commission dated 1.8.2014 passed in Appeal No. 59 of 2013 and 116 of 2013 the Hon'ble Tribunal holding as under:

"21. The open access consumer who maintains full contracted demand with the Distribution Licensee is liable to pay for demand charges which should cover the fixed cost of the Distribution Licensee. In case the Distribution Licensee is not able to recover full fixed cost for the power arranged for such consumer then the Distribution Licensee has liberty to put up a case with supporting documents for the recovery of same for consideration of the State Commission to appropriately compensate the Distribution Licensee so that the burden is not passed on to other consumers.

22. Section 42 (2) of the Electricity Act provides for open access in the distribution system on payment of wheeling charges and surcharge as specified by the State Commission and the surcharge to be utilized to meet the requirement of cross subsidy within the area of supply of the Distribution Licensee. However, the surcharge shall not be levied in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use. According to Section 42(2) of the Act, the open access consumer is also liable to pay additional surcharge as may be specified by the State Commission to meet the fixed cost (stranded cost) of the Distribution Licensee arising out of his obligation to supply. Therefore, if

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there is a stranded cost which the Distribution Licensee has bear out his obligation to supply to open access consumer, the Distribution Licensee can submit its claim for additional surcharge in its petition for ARR and tariff for consideration of the State Commission while deciding the wheeling charges, surcharge and additional surcharge for open access consumers. Thus, the law has provided a remedy for recovery of stranded cost of the Distribution Licensee out of its obligation to supply to an open access consumer. Therefore, if the Appellant Distribution Licensee finds that it has to bear some fixed cost (stranded cost) due to its obligation to supply to the open access consumer, it can always approach the State Commission with supporting data and claim additional surcharge in its ARR/tariff. Whenever such claim is raised by the Appellant, the State Commission shall consider the same and decide as per law."

5. The legal principle to be applied for the levy of Additional Surcharge, inter alia, is as under:

PRINCIPLES TO BE APPLIED

6. The basic principles to be applied for the computation of Additional Surcharge are:

(a) Additional Surcharge is a levy related to stranded power purchase cost of the distribution licensee which can be said to be the fixed cost which the distribution licensee is required to pay to generators under the long term power purchase agreements irrespective of there being utilization of the generating capacity contracted for by the Distribution Licensee;

(b) The Additional Surcharge is an appropriate compensatory amount for the licensee to be paid by the Open Access Customer for not taking electricity as a consumer from the distribution licensee of the area where the customer's premises is situated;

(c) Such compensatory payment should be the proportionate amount of such fixed cost which the distribution

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licensee has incurred without utilization of the Electricity (stranded power purchase cost) which the Open Access customer would have paid as part of the consumer tariff to the distribution Licensee of the area if instead of taking the electricity through open access, the same quantum of power was taken from the distribution Licensee of the area;

(d) The Additional Surcharge is related to the quantum of generating capacity tied up by the distribution licensee which is approved by the State Commission for purchase of power and consequently the quantum of fixed charges which the licensee will be paying for the committed power purchase contract but not availed on account of the actual quantum of purchase being less.

7. Prior to the coming into force of the Electricity Act, 2003, every person requiring supply of electricity was required to take the entire quantum from the distribution licensees in the area where his premises is situated. There was no concept of Open Access. The distribution licensee had the monopoly in dealing with the supply of electricity in the area for which the licence was granted to it. At the same time, the distribution licensee had the Universal Service Obligation to meet the requirements of all person in its area of licence.

8. The reasons for creating such monopoly in the distribution licensees was that it would be unviable for the distribution licensee to develop the entire distribution and supply system and facilities with significant investment being made if the end-users in the area sources the electricity from third parties. In this regard, even the captive generation and captive use of electricity was also significantly restricted. Section 44 of the Electricity (Supply) Act, 1948 generally restricted the setting up of a captive generating station for generating electricity for own use. The captive

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generation and captive use were permitted only when the licensee or the electricity Board could not arrange to supply the required quantum of electricity to the end-users.

9. It is submitted that even under the Electricity Act, 2003 the Distribution Licensees have special functions and characteristics as under:

a. The distribution licensees are required to be ready at all times to give electricity connection to any person within their area of supply and provide the required quantum, whether such person is an existing consumer or otherwise a new entrant. Therefore, distribution licensee is required to arrange for and be in a position to supply such quantum of electricity as may be demanded by the consumer or even a new person or at new premises where the electricity is required. The Open Access customers and also captive users of captive generation can also demand such electricity to be supplied at any time. The existing consumers are also entitled to increase their contract demand from time to time.

b. The distribution licensees are obligated to have committed arrangements for purchase of adequate quantum of electricity for arranging the supply to any person on demand within its area of supply. For the above purpose, taking into account the future power requirements of distribution licensee in its area of supply, such distribution licensees have to make long term arrangement by entering into Power Purchase Agreementsfor Long Term basis from time to time. Under such Power Purchase Agreements, the distribution licensee is required to pay the fixed charges on the basis of its Availability (up to the Target Availability Level) irrespective of whether the distribution licensee has actually scheduled the power or not. In other words, whenthe quantum of power contracted for purchase from the supplier of power is

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available to supply but distribution licensee has actually not drawn either wholly or partly, in any particular time block, day or season, the distribution licensee has to pay the committed fixed charges to such suppliers based on their availability.

c. The Distribution licensee of the area always has the Universal Obligation to Supply every person who needs power at any time, generally within a period of one month. This duty to supply is specifically provided under Section 43 of the Electricity Act, 2003 and similar obligation existed previously under the Indian Electricity Act, 1910. It is not open to the Distribution licensee to take the stand that it has not made arrangements for procurement of power and the existing power purchase arranged by the distribution licensee is not adequate to meet the demands. It is therefore incumbent upon the distribution licensees to have adequate concluded power procurement arrangement to effectively meet the above statutory and solemn obligations.

d. The procurement of electricity in bulk quantum and for sustained procurement has to be planned in advance. The generators need time to set up the project, generally about 4 years to make a committed supply of power at economical rate. Such supply cannot be arranged in short period.

e. There is an associated power purchase cost which includes substantial quantum of fixed charges/capacity charges which become payable by the distribution companies without actual use of power. The Electricity Act, 2003 contemplates that the entire quantum of fixed charges relating to power purchase minus the fixed charges related to the quantum of power actually scheduled to meet the requirement of the consumers is "stranded capacity" and the fixed cost related to such

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stranded capacity needs to be shared by the open access consumer.

10. In addition to the above the power requirements of the distribution licensee varies from season to season, day to-day and within the day in different time blocks. The distribution licensee is to make arrangements to meet the peak demand of electricity. While, the Power Purchase Agreement will generally be for procuring power on long term basis all point of time during real time operation of power system, the distribution licensee may not have the ability to use the 100% of the power contracted for 24 x7 basis during the entire duration of the Power Purchase Agreement.

11. In terms of the above, there could be a surplus quantum of power, during real time operation, which the distribution licensee had contracted for from the suppliers of electricity. The distribution licensee may not be in a position to avail or draw power on account various reasons including varying consumer demand. The distribution licensee cannot, however, avoid the payment of fixed charges to supplier of power to the extent of the above quantum of power up to the Target Availability, which is not actually availed by the distribution licensee.

12. The stranded capacity is required to be seen on the basis of availability of such Generating stations, based on which fixed cost is paid by the Distribution Licensee during the specified period and cannot be rejected on the basis of the Licensee purchasing electricity on short term basis or through power exchange in some days or part of the period to economize the overall power purchase cost and it is cannot be said that there is no deemed/stranded fixed charges during this period. .

13. In terms of Section 42(4) of the Electricity Act, 2003, the purpose of levy of additional surcharge is to *meet the fixed cost of such distribution licensee arising out of the obligation to supply*. The

National Tariff Policy deals with the same as compensation for *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.*

14. In terms of the above the additional surcharge cannot be rejected on the basis of the purchase of power by the distribution licensee on short term basis or through power exchange etc. for the following reasons:

a. Such purchase does not ipso factor mean that there is no stranded capacity in the State. The purchase of short term power could be on account of several other factors including economizing the power purchase cost, transmission/operational constraint etc.

b. The fact that the distribution licensees/GUVNL have proceeded to purchase Short Term Power (which was cheaper) in lieu of the Long Term Power (costlier power) is an aspect of the merit order and prudent utility practice. The Distribution Licensees, on behalf of the consumers of the State, have to ensure that the interests of the consumers are protected by adopting schemes to reduce the overall power purchase cost. It cannot be contended that the Additional Surcharge is not leviable if the distribution licensees arranges to reduce the cost of power purchase to the consumers at large. The stranded cost of power purchase is to be seen as a consequence of such prudent course of action adopted by the Distribution licensee in safeguarding consumer interest and not that such prudent activities be not adopted to mitigate the interest of the Open Access customers.

15. It is submitted that the existence of stranded capacity has to be considered with reference to the entire contracted capacity by the distribution licensees for which the fixed charges are to be paid

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(irrespective of whether the electricity is availed or not) after having met the demand of the consumers of the distribution licensees. All such quantum of power which the distribution licensee is not able to avail and for which the distribution licensee is required to pay the fixed charges on deemed generation/availability basis i.e. deemed fixed charges are stranded power purchase cost within the meaning of Section 42 (4) of the Electricity Act, 2003. The open access customers are required to contribute and pay for an appropriate proportion of such stranded power purchase cost.

16. It is submitted that in the background of the above aspects and the legal principles applicable, the principle on the computation of the Additional Surcharge needs to be decided.

17. The Additional Surcharge is a compensatory payment to be made by the Open Access Customers to the distribution licensees of an area of supply where the consumer is situated and arises when a person decides to avail supply of electricity from third parties instead of taking the quantum of such electricity from the distribution licensees of the area. Section 42 (4) of the Act itself uses the expression “meet the fixed cost” The Parliamentary mandate in the Act is clear. The plenary legislation has duly specified the scope and extent of additional surcharge as analysed and decided by the Hon’ble Supreme Court in Sesa Sterlite Case (Supra)

18. As per Clause 8.5 of the National Tariff Policy, the additional surcharge is related to all existing power purchase commitments and unavoidable obligation of the distribution companies to pay the fixed cost of power purchase, if the power cannot be scheduled. The distribution licensees have no choice but to service the entire fixed charges related to power purchase even if the consumers do not take power from the Distribution licensees. The entire stranded fixed charges paid by the Distribution companies under the Power Purchase Agreements, namely, where power is not scheduled is

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towards stranded capacity arising out of the obligation of the distribution licensees under Section 42 and 43 of the Electricity Act, 2003 and is an unavoidable obligation.

19. It is submitted that the Open Access Regulations need therefore to be interpreted and applied and the methodology to be specified consistent with the above scheme and objective. The concerned distribution licensee is therefore to be compensated towards loss of contribution in stranded power purchase cost by a person availing Open Access and sourcing power from others instead of taking it from the distribution licensees.

20. In the light of the above Preliminary Submissions, the reply to the above mentioned petition filed by the Petitioners are as under:

Para 1: The contents of Para 1 of the Petition are matters of record. It is, however, submitted that the Additional Surcharge is a compensatory amount legitimately due to be paid to the distribution licensees as per the law applicable, more fully set out herein above. It is not open to the Petitioners to claim that they can source electricity from persons other than the distribution licensees in the area without payment of the applicable surcharges such as Cross Subsidy Surcharge as well as Additional Surcharge in terms of Section 42 (4) for the stranded Power Purchase Cost. The allegations to the contrary are wrong and are denied.

Para 2: The contents of para 2 of the petition are matters to the knowledge of the Petitioners. The Petitioners are put to strict proof thereof.

Para 3: The contents of Para 3 of the Petition are matters to the knowledge of the Petitioners and the Petitioners are put to strict proof thereof.

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Paras 4 & 5: With regard to Paras 4 and 5 of the Petition, the Respondents would crave leave to refer to the provisions of the Gujarat Electricity Industry (Reorganisation and Regulations) Act, 2003 (herein after the `**Gujarat Act'**) at the time of the hearing. It is not denied that the Gujarat Electricity Board (herein after referred to as `**GEB'**) was organized into various corporate entities as set out in Para 4 of the Petition.

Paras 6 - 8: With regard to Paras 6 to 8 of the Petition, the Answering Respondents would crave leave to refer to the Order dated 12.03.2014 passed in Petition No. 1302 of 2013 filed by Gujarat Urja Vikas Nigam Limited (herein after referred to as `**GUVNL'**). It is submitted that in terms of the said Order, the Additional Surcharge is legally due and payable by the persons sourcing electricity requirements from third parties, instead of taking electricity from the distribution licensees of the area where the premise of the person is situated. The quantum of Additional Surcharge was to be decided in accordance with the methodology laid down in the Order dated 12.03.2014. It is further submitted that there were certain errors in the Order dated 12.3.2014 in regard to the method of computation of the Additional Surcharge. Aggrieved by the said Order in regard to the methodology, the Answering Respondents had filed an appeal being Appeal No. 140 of 2014 before the Hon'ble Appellate Tribunal for Electricity. The appeal was disposed off by the Hon'ble Tribunal vide Order dated 01.10.2018. A copy of the Order passed by the Hon'ble Tribunal dated 01.10.2018 is attached hereto and marked as **Annexure 'A'.**

During the pendency of the appeal, the Answering Respondents had from time to time furnished the details to the Hon'ble Commission in regard to the computation of the Additional Surcharge in terms of the Order dated 12.03.2014.

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The Additional Surcharge amount has been levied and collected as per the methodology decided by the Hon'ble Commission, which is still in force. However, in terms of the liberty granted by the Hon'ble Tribunal for Electricity in the Order dated 01.10.2018, the Answering Respondents have also filed the petition for modification in the methodology for computation of Additional Surcharge The Answering Respondents would crave leave to refer to the petition filed by it at the time of the hearing.

Para 9: With regard to Para 9 of the petition, it is submitted that the present methodology decided by Hon'ble Commission for determination of Additional Surcharge is not adequately compensating distribution licensee towards stranded fixed cost in terms of Section 42(4) of Electricity Act, 2003. It is also submitted that the Hon'ble Commission has the jurisdiction to decide the matter relating toAdditional Surcharge in accordance with the governing law. However, the determination of Additional Surcharge or the methodology should achieve the objective and purpose of the levy of Additional Surcharge as provided in Section 42 (4) of the Electricity Act, 2003 as interpreted and applied by the Hon'ble Supreme Court in SESA Sterlite matter and also by the Hon'ble Tribunal in the Maharashtra State Electricity Distribution Company Limited, decision dated 1.8.2014 (supra).

Para 10: With regard to Para 10 of the petition, it is submitted that Hon'ble Commission has jurisdiction to decide the matters relating to Additional Surcharge in accordance with the law. The Answering Respondents reserve the right to make appropriate submissions on the merits of the claim made by the Petitioners in regard to the scope and extent of the levy of Additional Surcharge.

Para 11: The contents of Para 11 of the petition as stated are not correct. It is wrong and denied that the methodology to be decided should be in favour of the Open Access Customers in a manner that it encourages the Open Access at the cost the cost of general body of consumers. As laid down by the Hon'ble Supreme Court in CESA Sterlite decision (supra) the Additional Surcharge is also a compensatory payment and, therefore the levy of Additional Surcharge, the methodology to be adopted etc should be consistent with the above scheme and objective of Electricity Act.

It is wrong and denied that in the past the Answering Respondents had implemented a methodology affecting the Petitioners i.e. the Open Access Customers. It is submitted that the Respondent has been computing additional surcharge from time to time in accordance with the formula decided by Hon'ble Commission in the order dated 12.03.214, which is in force till Hon'ble Commission decides the new formula/methodology for determination of Additional Surcharge.

It is wrong and denied that the data submitted by the Answering Respondents for determination of Additional Surcharge is not in the public domain or there is lack of scrutiny. It is submitted that the all the relevant details of available quantum of energy from long term power tied up capacity, scheduled energy, energy which is not availed, open access quantum, details of power purchase cost, fixed charges paid to generating stations, demand charges collected from consumers etc are available in the public domain. Further, Hon'ble Commission determines Additional Surcharge from time to time based on the audited details submitted by the Respondents as certified by Charted Accountant.

It is wrong and denied that there is any necessity for hearing the Open Access Customers in the application of the formula decided by the Hon'ble Commission for levy of Additional Surcharge from time to time. The said determination is only a computation of Additional Surcharge amount in accordance with the formula decided by Hon'ble Commission after hearing all theaffected parties. Accordingly, no useful purpose will be served by having a hearing for the said purpose rather it will delay the determinationof additional surcharge. Such a computation is akin to the computation of the Fuel Power Purchase Cost Adjustment (FPPPA) from time to time, which is also implemented automatically based on the formula decided by Hon'ble Commission. The allegations to the contrary contained in Para 11 of the petition are wrong and are denied.

Paras 12 & 13: With regard to Paras 12 and 13 of the petition, the Answering Respondents would crave leave to refer to the governing laws mentioned herein above. It is submitted that the Additional Surcharge amount and the methodology for determination for such amount has to be consistent with the governing laws mentioned herein above and should achieve the objective and purpose of levy of such surcharge as envisaged in Section 42 (4) of the Electricity Act, 2003. It is submitted that the contention that there should be a wheeling for levy of Additional Surcharge is contrary to the decision of the Hon'ble Supreme Court in SESA Sterlite case. The interpretation of the provisions of Section 42 (4) of the Electricity Act, 2003 made by the Petitioners in Para 13.1 of the petition is wrong and is denied. The Answering Respondents would crave reference to the Preliminary Submissions made herein above. The Additional Surcharge is leviable as a compensatory amount payable to the distribution licensees for the stranded power purchase cost irrespective of whether there is an element of wheeling or not. The purpose for which the Additional Surcharge as compensatory payment

has been provided for in Section 42 (4) is not dependent upon the use of the distribution licensee's system for wheeling of electricity. The decision relied on by the Petitioners in Para 13.3 are distinguishable and have no application to the interpretation of Section 42 (4) of the Act. As mentioned herein above, the governing law which includes the decision by the Hon'ble Supreme Court in SESA Sterlite matter (supra) and the Hon'ble Appellate Tribunal in Maharashtra State Electricity Distribution Company Limited case are binding precedents. It is not open to the Petitioners to interpret Section 42 (4) of the Electricity Act in a manner contrary to the above settled legal position. The contentions to the contrary are wrong and denied.

Para 14: With regard to Para 14 of the petition, the Answering Respondents would crave reference to the National Tariff Policy at the time of the hearing for its true scope and meaning. The interpretation of the National Tariff Policy by the Petitioner in Para 14.2 is wrong and denied. The principle and circumstances under which Additional Surcharge would become payable by an Open Access Customer to the distribution licensees are well settled. These have been detailed in the Preliminary Submissions made herein above. The principle of determination of the stranded power purchase cost has been set out in the Preliminary Submissions herein above and in the Petition filed by the Answering Respondents. The Answering Respondents would crave leave to refer to the same at the time of the hearing and the allegations to the contrary contained in Para 14 of the petition are wrong and are denied.

Para 15: With regard to Para 15 of the petition, the Answering Respondents would crave reference to Regulation 25 of the Open Access Regulations for its true scope, meaning and extent. It is submitted that Additional Surcharge is to be

levied on account of stranded power purchase cost, the method of determination of the stranded power purchase cost is set out in the Preliminary Submissions made herein above. The Answering Respondents reiterates the Preliminary Submissions made herein above and the allegations to the contrary are wrong and are denied.

Para 16: With regard to Para 16 of the petition, it is reiterated that the Order dated 12.03.2014 of the Hon'ble Commission was challenged by the Answering Respondents before the Hon'ble Appellate Tribunal for Electricity. The Respondents have filed petition before Hon'ble Commission for revision in the methodology for determination Additional Surchargein accordance with the decision of the Hon'ble Appellate Tribunal for Electricity in the Order dated 01.10.2018.

Para 17: With regard to Para 17 of the petition, it is reiterated that the methodology for levy of Additional Surcharge is to be revisited as per the governing laws and taking into account the principles set out herein above. The Answering Respondents have claimed the Additional Surcharge to be determined based on the stranded power purchase cost, which is clearly demonstrable based on the fixed charges which the Answering Respondents have been paying to the generators without the utilization of the electricity i.e. deemed generation. The above clearly represents the stranded power purchase cost. While the methodology for determination of the Additional Surcharge needs to be considered and decided by the Hon'ble Commission after hearing the interest parties/stakeholders, the application of the methodology from time to time for levy of Additional Surcharge does not require any hearing. It is further denied that the data is not available in public domain or that the principles of transparency are not being followed. It is further submitted that the interests of open access customers cannot be promoted at the cost of consumers of

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distribution licensee who would have to pay higher tariff if the appropriate additional surcharge is not levied. The primary intention of the Electricity Act, 2003 is to safeguard the interests of the consumers at large and cannot be construed to favour open access customers at the cost of the consumers at large. The contentions to the contrary are wrong and denied.

Para 17 (repeated para): With regard to Para 17 (repeated para) of the petition, it is submitted that the principles to be adopted for determination of Additional Surcharge and its methodology have been set out in detail in the Preliminary Submissions herein above and the contentions to the contrary are wrong and denied. Further, the Answering Respondents crave reference to the petition filed by the Answering Respondents for such determination. The Petitioners are referring to the quantum of power taken by the Answering Respondents from Power Exchanges on short term basis during the period as an evidence of no stranded power purchase cost. It is submitted that the purchase of such short term power and Power Exchange cannot be treated as evidence of no stranded power purchase cost for the reasons detailed in the petition filed by the Answering Respondents and Preliminary Submissions made hereinabove. The Petitioners are proceeding on a simplicitor basis without considering the nature of the power demand from season to season, day to day, peak demand and the necessity for the Answering Respondents to make arrangements to meet all the demands. It is submitted that the peak demand during the entire period from April 2017 to March 2018 was lower than the power tied up by the Respondents on long term basis power and thereby there was a stranded power and obligation to pay fixed cost for such stranded capacity. It is also wrong and denied that the backing down of generation was not there during the financial year 2017-18 as alleged by the Petitioners. It is wrong and

denied that the Petitioners are entitled to rely on a data from a particular date. The Answering Respondents crave leave to refer to the same at the time of the hearing.

Paras 18.1 & 18.2: With regard to Paras 18.1 and 18.2 of the petition, it is reiterated that the Additional Surcharge to be determined as payable by the Open Access Customers to the distribution licensees in the State is related to the deemed fixed charges paid by the distribution licensees/GUVNL to the generators i.e. without availing the quantum of electricity. The situation in which the said fixed charges arises has been more fully set out herein above and also in the petition filed by the Answering Respondents before the Hon'ble Commission in pursuance to the liberty granted by the Hon'ble Appellate Tribunal. It is wrong and denied that the necessary information for computation of such Additional Surcharge quantum is not available.It is wrong and denied that the distribution licensees do not have adequate power. It is reiterated that the fact that GUVNL had taken electricity from the Power Exchanges from time to time or otherwise from the open market does not necessary mean that there is no stranded power purchase cost. It is submitted that GUVNL and the distribution licensees have to discharge their functions for procurement of electricity for distribution and retail supply to the consumers in the State in an economical and efficient manner. Accordingly, whenever the distribution licensees/GUVNL adopts a scheme to benefit the consumers at large, namely, by procuring electricity available at a cheaper short term rate from Power Exchanges or otherwise, the same cannot be held against them for denial of the additional surcharge. The distribution licensees will be failing in their functions and duty to safeguard the interest of the consumers at large if they do not adopt the measure to economize the cost to the consumers. The Open Access Customers cannot claim that such a course should either be not adopted by the

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distribution licensees or if adopted the said quantum of purchases made to economize the cost to the consumers at large should be excluded while computing the stranded power purchase quantum.

It is wrong and denied that the decision of the Hon'ble Appellate tribunal dated 1.8.2014 in Appeal No. 38 of 2013 has any application to the present case. It is wrong and denied that there has been any power cuts in the State of Gujarat during the relevant period.

Para 18 (Repeated): With regard to Para 18 (repeated) of the petition, the Answering Respondents submit that the new methodology proposed by the Answering Respondent in the petition filed by it before this Hon'ble Commission in pursuance to the liberty granted by the Hon'ble Appellate Tribunal is the correct and appropriate methodology for computing the Additional Surcharge.

It is submitted that the methodology suggested by the petitioner for determination of Additional Surcharge is without any merit and shows lack of understanding of power system operation on real time basis. It is further stated that the suggestion of the petitioner for determinationof stranded capacity and stranded fixed cost on 15 minute time block basis, is leading to the situation of differentrate of Additional Surcharge for each open access customers for each 15 minute time of block, which is not feasible and practicable.

It is reiterated that the entire quantum of electricity committed for purchase by the distribution licensees to the extent of the payment of deemed fixed charges i.e. without availing the power, need to be considered for the purpose of computation of Additional Surcharge irrespective of any other

consideration sought to be alleged by the Petitioners. It is reiterated that the purchase of electricity by the Answering Respondents from the Power Exchanges or open market to economise the cost of electricity to the consumers at large serviced by the distribution licensees cannot be adjusted against the quantum to be considered as stranded capacity under the committed PPA. These measures are taken by the distribution licensees as per the scheme and objective of the Act to economise the price for the consumers at large.

Similarly, the quantum of electricity taken by the Answering Respondents from the non-conventional sources to fulfill the Renewable Purchase Obligation provided as per Section 86 (1) (e) of the Electricity Act, 2003 cannot also be adjusted in the stranded power purchase cost. It is submitted that the Respondents have Universal Service Obligations and also Renewable Purchase Obligation (RPO). Accordingly, Respondents have to make arrangements for procurement of renewable power based on the RPO trajectories and considering the consumption requirement of all the consumers in the area of supply of distribution licensee including consumption of open access consumers. Further, generation of power from RE sources is to be availed on must run basis. Therefore, quantum of electricity from the conventional power purchase arrangement having obligation to pay fixed cost based on availability but could not be utilized in view of the purchase of non-conventional electricity under must-run status or otherwise cannot be held against the Answering Respondents in regard to the computation of Additional Surcharge under Section 42 (4) of the Electricity Act, 2003.

As regards to the adjustment due to load shedding, it is submitted that the Respondents have tied up adequate capacity on long term basis for meeting existing as well as future power requirement of all consumers in its area of

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supply. Therefore, there is no requirement for imposing load shedding due to shortage of power and accordingly adjustment for the quantum of load shedding in the stranded capacity as sought by the petitioner is without any merit and not permissible.

As regards backing down of the generating station with whom the Answering Respondents have committed the PPAs, it is submitted that if the backing down is for reasons of the inability to use the electricity for distribution and retail supply under merit order or otherwise, such quantum being surplus, there cannot be any adjustment of the quantum of computation of Additional Surcharge. The said backing down is not on account of any default or failure or for any reason attributable to the distribution licensees. The distribution licensees cannot be blamed and denied the compensatory payment of Additional Surcharge on account of the said backing down of generation of electricity by reason of the said quantum being surplus to the requirement of the distribution licensees. The very concept of Additional Surcharge dealing with the stranded power purchase capacity has been incorporated in Section 42 (4) of the Electricity Act, 2003 without any reservation or condition and without providing for any exclusion on account of aspects such as purchase of power under short term market, load shedding, purchase of renewable energy to fulfill the renewable purchase obligation etc clearly establish that the relevant factor is the total quantum of deemed fixed charges payable by the GUVNL/distribution licensees to the generators. If the intention of the Parliament was to make any exclusion or adjustment in regard to the stranded power purchase cost on account of purchase of renewable sources of energy or purchase of electricity from short term market, Power Exchanges, open market etc, the same would have been provided for in the Electricity Act itself. It is submitted that

there cannot be such conditions added to the computation of Additional Surcharge, in the absence of any stipulation in the Electricity Act, 2003. The quantum made by the Petitioners in regard to the above is not in accordance with law, scheme and objective of the Electricity Act and the Additional Surcharge being in the nature of a compensatory payment for the stranded power purchase cost. Any other consideration such as the factors mentioned herein above by the Petitioners and particularly when such factors are not on account of any act of commission or omission or failure or breach or otherwise attributable to the Answering Respondents cannot be considered to reduce the quantum of electricity to be taken for determination of Additional Surcharge.

With regard to the suggestion of the petitioner to allocate the quantum of stranded power to generating stations based on the merit order principle for the purpose of assessment of the stranded power purchase cost, it is submitted that apart from merit order principles, other factors also need to be considered for scheduling of power on real time basis such as technical minimum requirements, transmission constraints, must run status of RE power, ceiling on exchange of power at regional periphery etc. Therefore, it not correct to say that unutilized capacity would be purely in the order of variable cost of generating stations.

The methodology, formula and the calculation purported to be made by the Petitioners and contained in the petition filed are not correct and are not in accordance with the scheme, objective and purpose of the provisions of the Electricity Act, 2003. The Answering Respondents reserves the right to make appropriate submissions on such formula and computation made by the Petitioners. The Answering respondents would also crave leave to refer to the petition filed by the Answering Respondents before the Hon'ble Commission in pursuance of

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the liberty granted by the Hon'ble Appellate Tribunal. Each and every allegation to the contrary contained in Para 18 (repeated) of the petition are wrong and are specifically denied.

For the reasons mentioned herein above the petition filed by the Petitioners seeking computation of the Additional Surcharge and the methodology for such computation tobe adopted in the manner given in the petition, is not correct and is liable to be rejected. It is, however, submitted that the computation of Additional Surcharge is required to be undertaken considering the scheme, objective and purpose of the Electricity Act and further with specific reference to the provisions of Section 42 (4) of the Electricity Act, 2003 which gives the guideline, namely *`to meet the fixed cost of such distribution licensees'*. The stranded power purchase cost to be considered, as detailed herein above, is the cost for such quantum of electricity for which the Answering Respondents pay the capacity charges without the ability to use the electricity. There is no ambiguity in the plain language of Section 42 (4) of the Electricity Act, 2003. It is not then open to the Petitioners to add words such as stranded fixed cost of the distribution licensee in the PPA shall be adjusted with cost of purchase of electricity from non-conventional sources or when there are any load shedding on account of constraints in the power system or when certain quantum of electricity is purchased by the distribution licensees from the Power Exchanges, open market and on short term basis to economise the price of electricity to the consumers at large. It is reiterated that all the relevant data are available on records. The contentions to the contrary are wrong and denied.

Para 19: With regard to Para 19, ...

... and 19, it is submitted that the Petitioners are not entitled to any of the prayers made in the petition as alleged or otherwise. The methodology as per the

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Petition being filed by the Answering Respondent is to be considered.

21. For the reasons mentioned herein above, the petition filed is devoid of any merit and is liable to be dismissed.

RESPONDENT

For GUJARAT URJA VIKAS NIGAM LIMITED

Place: VADODARA

Dated: 14/12/2018

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Regd. No.: 1544
Date: 14.12.18

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NOTARY BHAVESH C. VYAS AREA: DIST Vadodara REG. NO. 1176 2010 GOVT. OF GUJARAT (INDIA)

BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION

PRTITION NO: 1747 of 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 Gujarat Electricity Regulatory Commission (Terms and Conditions of Intra State Open Access) Regulations, 2011 read with the National Tariff Policy

AND

IN THE MATTER OF:

Federation of Kutch Industries Association &Anr - Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Others - Respondents

AFFIDAVIT

I, Hetalkumar Patel son of Hasmukhbhai Patel aged about 36 years working at Gujarat Urja Vikas Nigam Limited, Vadodara do hereby solemnly affirm and state as under:

1. I am the authorized representative of the Respondents mentioned herein above and I am fully conversant with the facts of the case and able to depose to the present affidavit.
2. I have gone through the contents of the accompanying Reply of the Respondents 1 to 5 and I say that the contents stated therein are based on the records of the Respondents in the normal course of business and believed by the deponent to be true.
3. I say that the annexure is a true copy.

DEPONENT

VERIFICATION:

I, the deponent above named do hereby verify that the contents of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Vadodara on this 14th day of December, 2018.

DEPONENT

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NOTARY BHAVESH C. VYAS AREA: DIST. Vadodara REG. NO. 1176 2010 My Commi. Exp. Dt. 08-02-2020 GOVT. OF GUJARAT (INDIA)

NOTARY BHAVESH C. VYAS AREA: DIST. Vadodara REG. NO. 1176 2010 My Commi. Exp. Dt. 08-02-2020 GOVT. OF GUJARAT (INDIA)

Solemnly Affirmed / Declared
Sworn Before me by... Hetalkumar Patel

BHAVESH C.VYAS
NOTARY (Govt. of Gujarat)

14.12.18

COURT-II

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

ORDER IN APPEAL NO. 140 OF 2014
ON THE FILE OF THE APPELLATE TRIBUNAL
FOR ELECTRICITY, NEW DELHI

Dated: **01st October, 2018**

Present: **Hon'ble Mr. Justice N.K. Patil, Judicial Member**
Hon'ble Mr. S.D. Dubey, Technical Member

IN THE MATTER OF:

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

2. Paschim Gujarat Vij Company Limited,
Off. Nana Mava Main Road,
Laxminagar, Rajkot – 360 004.

3. Dakshin Gujarat Vij Company Limited,
Nana Varachha Road,
Kapodara, Surat – 395 006

4. Uttar Gujarat Vij Company Limited,
UGVCL Regd. & Corporate Office,
Visnagar Road, Mehsana – 384 001.

5. Madhya Gujarat Vij Company Limited
Sardar Patel Vidhyut Bhavan,
Race Course Circle, Vadodara – 390007 ....Appellants

Versus

Gujarat Electricity Regulatory Commission
First Floor, Neptune Tower,
Opposite Nehru Bridge,
Ashram Road, Ahmedabad – 380009 ....Respondents

Counsel for the Appellant (s)	:	Mr. M.G.Ramachandran Ms. Ranjitha Ramachandran Ms. Poorva Saigal Ms. Swapna Seshadri Ms. Neha Garg
Counsel for the Respondent(s)	:	Ms. Suparna Srivastava Ms. Nehul Sharma

The Appellant has sought the following reliefs in Appeal No. 140 of 2014:-

(a) Allow the appeal and set aside the order dated 12.03.2014 passed by the State Commission to the extent challenged in the present appeal.

(b) Pass such other Order(s) and this Hon'ble Tribunal may deem just and proper.

The Appellant has presented in this Appeal for consideration the following Questions of Law:

A. Whether in the facts and circumstances of the case, the State Commission has correctly applied the methodology of determination of the Additional Surcharge payable by the Open Access consumers to the distribution licensees as per the provisions of subsection (4) of section 42 of the Electricity Act read with Regulation 25 of the Open Access Regulations, 2011?

B. Whether the State Commission is right in deriving the stranded capacity of the Open Access taken by the customers on the basis of average availability, average schedule etc as the measure to calculate the Additional Surcharge ?

C. Whether in the facts and circumstances of the case, the State Commission is right in restricting the Additional Surcharge payable to Rs 0.42 per KwH as against the claim of Rs 1.35 per KwH made in the petition filed by the Appellants?

D. Whether the State Commission is right in adjusting entire demand chares (excluding wheeling and transmission charges) recovered from open access customers by distribution companies against the stranded generation fixed cost?

E. Whether the State Commission is right in determining additional surcharge by considering scheduled energy when additional surcharge is leviable on actual open access energy?

F. Whether the State Commission is right in considering the average quantum of open access for determining additional surcharge ignoring that the reserved capacity needs to be shared by the entire consumer including open access consumers in proportionate basis?

ORDER

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

We have heard the learned counsel, Mr. M.G. Ramachandran, appearing for the Appellant and learned counsel, Ms. Suparna Srivastava, appearing for the Respondent.

During the course of the submissions, learned counsel appearing for the Appellant has filed a memo dated 01.10.2018 for consideration and the same was taken on record.

Learned counsel, Mr. M.G. Ramachandran, submitted that, in the light of the statement made in the memo dated 01.10.2018 may be placed on record and the instant appeal may be disposed of in terms and for the reasons stated in the memo, reserving liberty to the Appellant to redress their grievance before the Gujarat Electricity Regulatory Commission for fresh consideration in the interest of justice and equity.

Per contra, learned counsel appearing for the Respondent, inter alia, contended and submitted that in the light of the submissions made by the learned counsel appearing for the Appellant and the statement made in the memo dated 01.10.2018 may be placed on record and appropriate order may be passed.

Submissions made by the learned counsel appearing for the Appellant and learned counsel appearing for the Respondent No.1, as stated above, are placed on record.

The statement made in the Memo dated 01.10.2018 reads thus:-

a. In view of the fact that the impugned order of the State Commission was passed on 12.03.2014 and has been implemented during all these months till date, it will be appropriate to dispose off the present Appeal granting the liberty to the Appellants to file a petition before the Gujarat Electricity Regulatory Commission for determination of additional surcharge including the revised methodology as the Appellants wish to submit for the future periods. If such Petition is filed, the State Commission will consider the Petition on its merits in accordance with law.

b. It is clarified that no views have been expressed by the Appellant Tribunal on the merits of the Impugned order.

In the light of the submissions made by the learned counsel appearing for the Appellant and learned counsel appearing for the Respondent and in terms of the statement made in the memo and for the reason stated therein, the instant Appeal filed by the Appellant stands disposed of.

Order accordingly.

(S.D. Dubey)
Technical Member

(Justice N.K. Patil)
Judicial Member

Pr/js

2WDMS No:- 39214/GERC/2018

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Subject:	FW: GERC LETTER: GERC/Legal/2019/No.0097 dated 11.01.2019
Date:	Thursday, 17 January 2019 at 10:56:22 AM India Standard Time
From:	PA
To:	pandeysr@gercin.org
CC:	dydirlegal@gercin.org, wasim@gercin.org, ruchik@gercin.org
Attachments:	GERC1.pdf, 1.pdf, Delivery Report.pdf

From: Varun Pathak <varun.pathak@varunpathak.com>
Date: Wednesday, 16 January 2019 at 7:53 PM
To: <secretary@gercin.org>
Subject: GERC LETTER: GERC/Legal/2019/No.0097 dated 11.01.2019

To,
Secretary, Gujarat Electricity Regulatory Commission (hereinafter "**GERC**"),
6th Floor, GIFT ONE, Gandhinagar – 382 355, Gujarat, India.

Reference: Petition No. 1747 of 2018

Respected Sir,

The undersigned's client is in receipt of the captioned and above referred letter sent by GERC. Please note that SLDC has already acknowledged receipt of the scanned copy of the petition (email also marked to the Commission) by email dated 17.11.2018.

Please find attached, the delivery report of post office wherein it is clearly stated that the delivery of the petition has been received by SLDC on 22.11.2018.

Trust this clarifies the matter.

Also, request you to intimate the status of the said petition.

Best regards.

Varun Pathak, Advocate.

G.E.R.C.
0287
17 JAN 2019
Legal
17/1

Ex. Shri Wasim process
18/01/19

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Track Consignment

Quick help

* Indicates a required field.

* Consignment Number

ED307259963IN

Track More

Booked At	Booked On	Destination Pincode	Tariff	Article Type	Delivery Location	Delivered On
Vasant Kunj SO	17/11/2018 10:06:38	390021	70.80	Speed Post	T B Sanatorium SO	22/11/2018 17:50:34

Event Details For : ED307259963IN

Current Status : Item Delivered

Date	Time	Office	Event
22/11/2018	17:50:34	T B Sanatorium SO	Item Delivered
22/11/2018	12:31:49	T B Sanatorium SO	Out for Delivery
22/11/2018	10:18:28	T B Sanatorium SO	Item Received
17/11/2018	14:27:02	Vasant Kunj SO	Item Bagged
17/11/2018	10:06:38	Vasant Kunj SO	Item Booked

More Information >>

Booked At	Booked On	Destination Pincode	Tariff	Article Type	Delivered At	Delivered On
					T B Sanatorium S.O	22/11/2018

Event Details For : ED307259963IN

Current Status : Item delivered at T B Sanatorium S.O

Date	Time	Office	Event
22/11/2018	17:50:34	T B Sanatorium S.O	Item delivered
22/11/2018	10:18:28	T B Sanatorium S.O	Item Received
22/11/2018	10:18:28	T B Sanatorium S.O	Bag Opened
22/11/2018	09:58:49	T B Sanatorium S.O	Bag Received
22/11/2018	05:02:00	NSH VADODARA	Bag Despatched to T B Sanatorium S.O
22/11/2018	00:59:15	NSH VADODARA	Item Bagged for T B Sanatorium S.O
21/11/2018	19:15:39	NSH VADODARA	Item Received
21/11/2018	19:15:35	NSH VADODARA	Bag Opened
21/11/2018	19:13:00	NSH VADODARA	Bag Received
18/11/2018	05:18:49	PALAM TMO	Bag Despatched to NSH VADODARA
18/11/2018	04:52:22	PALAM TMO	Bag Received
18/11/2018	04:22:07	NSH NEW DELHI	Bag Despatched to PALAM TMO
18/11/2018	02:52:48	NSH NEW DELHI	Item Bagged for NSH VADODARA
17/11/2018	23:18:49	NSH NEW DELHI	Item Received

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200947/GERC/2019

73

Subject: FW: Listing of Petition filed on behalf of Federation of Kutch Industries Associations & Anr. - Petition No. 1747 of 2018

Date: Thursday, 4 April 2019 at 11:10:09 AM India Standard Time

From: PA <pa.secretary@gercin.org>

To: pandeysr@gercin.org <pandeysr@gercin.org>

CC: dydirlegal@gercin.org <dydirlegal@gercin.org>, WASIM ANSARI (EXECUTIVE LEGAL) <wasim@gercin.org>, DIRECTOR <drparmar@gercin.org>

From: Varun Pathak <varun.pathak@varunpathak.com>
Date: Wednesday, 3 April 2019 at 10:34 AM
To: <secretary@gercin.org>
Subject: Listing of Petition filed on behalf of Federation of Kutch Industries Associations & Anr. - Petition No. 1747 of 2018

To,

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

Reference: Petition No. 1747 of 2018

Respected Sir,

The undersigned has filed a petition on behalf of Federation of Kutch Industries Associations & Anr. with respect to the 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. The said petition has been filed against Gujarat Urja Vikas Nigam Limited & Ors.

Despite repeated follow ups, the undersigned is unable to get clarity on the status of listing of the captioned matter. It is very strange that despite more than 5 months and repeated follow ups the undersigned has not been informed of the listing date in the matter. Further, as a vakalatnama has already been filed by me and my contact details have also been supplied, there is no direct communication with the undersigned. **Please treat this as an urgent request regarding the status of the petition's listing**.

With utmost remorse and humility I have to submit that failing an appropriate response I will be left with no option but to file a 121 petition with the Hon'ble Appellate Tribunal. Hopefully, all concerned will act in accordance with law and do the needful.

Thanking you,

Yours sincerely,

Varun Pathak.

– for kind perusal pl.
– Hon'ble Chairman
– " Member
– " Member
– Secretary
5/4/19

Executive legal
give numbers
keep in Legal
element file
and provide
copy to [illegible]
5/4/2019

G.E.R.C.
Inward No. 1570
Date :- 4 APR 2019

74

Legal Advisor

From:	PA <pa.secretary@gercin.org>
Sent:	25 April 2019 16:53
To:	pandeysr@gercin.org
Cc:	dydirlegal@gercin.org; ruchik@gercin.org
Subject:	FW: Listing of Petition filed on behalf of Federation of Kutch Industries Associations & Anr. - Petition No. 1747 of 2018

From: Varun Pathak <varun.pathak@varunpathak.com>
Date: Thursday, 25 April 2019 at 3:53 PM
To: <secretary@gercin.org>
Subject: Re: Listing of Petition filed on behalf of Federation of Kutch Industries Associations & Anr. - Petition No. 1747 of 2018

Respected Sir,

I write in continuation of my earlier email..

Request you to intimate the status of the captioned matter.

Please treat this as urgent.

Thanks and regards.

Varun Pathak, counsel for the Petitioner.

- for kind perusal pl.
- Hon'ble Chairman
- " Member
- " Member
- Secretary

24/4/19

Executive legal examine process

29/4/2019

On Wed, 3 Apr 2019 at 10:34, Varun Pathak <varun.pathak@varunpathak.com> wrote:

To,

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

Legal 26/4

G.E.R.C.
Inward No. - 1881
Date : 26 APR 2019

Reference: Petition No. 1747 of 2018

Respected Sir,

The undersigned has filed a petition on behalf of Federation of Kutch Industries Associations & Anr. with respect to the 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. The said petition has been filed against Gujarat Urja Vikas Nigam Limited & Ors.

Despite repeated follow ups, the undersigned is unable to get clarity on the status of listing of the captioned matter. It is very strange that despite more than 5 months and repeated follow ups the undersigned has not been informed of the listing date in the matter. Further, as a vakalatnama has already been filed by me and my contact details have also been supplied, there is no direct communication with the undersigned. **Please treat this as an urgent request regarding the status of the petition's listing**.

X5

With utmost remorse and humility I have to submit that failing an appropriate response I will be left with no option but to file a 121 petition with the Hon'ble Appellate Tribunal. Hopefully, all concerned will act in accordance with law and do the needful.

Thanking you,

Yours sincerely,

Varun Pathak.

76

FEDERATION OF GUJARAT INDUSTRIES
ISO 9001:2015 Certified | 'Gold Grade' accredited BMO by NABET & QCI
FGI Business Centre, Gotri-Sevasi Road, Khanpur, Nr. Sevasi, Vadodara-391 101, Gujarat, India.
Tel : +91 265 2372901-02,03, Fax : +91 265 2372904 Email : info@fgi.co.in Website : www.fgiindia.com
Founded in 1918

No. FGI / GERC / 362
18th September 2019

To,
The Secretary
Gujarat Electricity Regulatory Commission,
6th Floor, GIFT ONE,
Road 5-C, Zone -5, GIFT CITY
Gandhinagar - 382 355

Sub: Submission of Affidavit and copies of Advertisements for Petition No. 1747 of 2018 for Additional Surcharge
Ref: GERC Oral Order dated 30.08.2019

Dear Sir,

We refer to the above oral order and submit herewith the **Affidavit in Original** plus 4 copies along with copies of public advertisements appeared in the newspapers in connection with the subject petition as required.

Yours Sincerely,
For and on Behalf of FEDERATION OF GUJARAT INDUSTRIES

NITESH PATEL
Secretary General
Federation of Gujarat Industries

(Authorized Signatory)

Encl: As Above

Put up to Legal secy

G.E.R.C.
No - 4032
Date : 20 SEP 2019

Reg. No....13903.......
Date : 19 /09 /2019

77

BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY COMMISSION, AT AHMEDABAD
ORIGINAL REGULATORY JURISDICTION
PETITION NO. 1747 OF 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 Kutch Industries Associations & Anr.

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited & Ors.

...Respondents

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 pursuant to order dated 30.08.2019 passed by this Hon'ble Commission public notice dated 13.09.2019 were published in two Gujarati newspapers, namely 'Sandesh' and 'Financial Express (Gujarati Edition)', and one English newspaper, namely 'Indian Express' inviting the stakeholders to file their objections/suggestions on affidavit within 30 days from the date of issuance of public notice.

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Copies of the public notices published in Gujarat dailies and English daily are appended hereto this affidavit as **Annexure A (Colly).**

4. That pursuant to order dated 30.08.2019 the Petitioner No. 2 has also uploaded the present petition along with all the relevant documents on its website for inviting suggestions/objections thereon.

5. That in the public notice it is clearly stated that the stakeholders shall file their suggestions/objections on the petition to the Secretary, Gujarat Electricity Regulatory Commission, 6th Floor, GIFT ONE, Road 5C, Zone 5, GIFT CITY, Gandhinagar- 382 355 in five copies along with affidavit in support of their submissions with a copy to the Petitioners.

6. That no part of the instant affidavit is false and nothing material has been concealed therefrom.

7. 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.

NITESH PATEL
Secretary General
FOR Federation of Gujarat Industries

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. 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 19th September, 2019.

NITESH PATEL
Secretary General
FOR Federation of Gujarat Industries

DEPONENT

NOTARY GIRISH N. THAKKAR AREA VADODARA DIST. Reg. No. 985-2009 Expiry Dt. 26-02-2024 GOVT. OF GUJARAT (INDIA)

My Commission Expires on 26-Feb.-2024
GIRISH N. THAKKAR
NOTARY (Govt. of Gujarat) INDIA

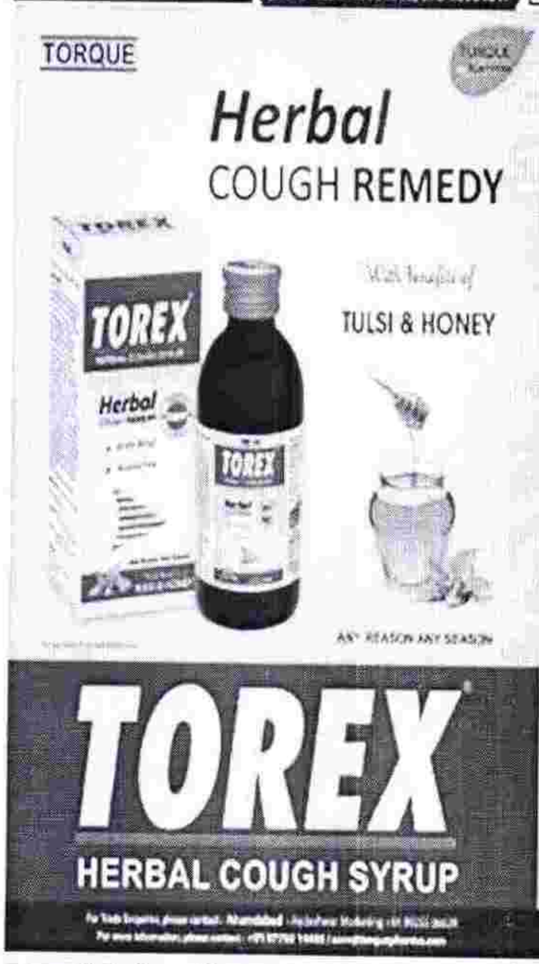
Solamnly Affirmed/Declared Swon Before me by Nitesh Patel.
GIRISH N. THAKKAR
NOTARY (Govt. of Gujarat)
19/09/2019

79

Annexure A

રાજ્યમાં ૧૧૮.૧૧ ટકા વર્ષા, ઉ.ગુ.માં માત્ર ૭ ટકા ઘટ

ગાંધીનગર આઈઆઈટીને પ્રથમ વખત વર્લ્ડ યુનિવર્સિટી રેન્કિંગમાં સ્થાન મળ્યું



80

KIFS FINANCIAL SERVICES LIMITED

GUJARAT CONFIDENTIAL

Neta Natter

Wooed, Then Dismissed

Journalist, humorist return Ratnakar awards in protest

EXPRESS NEWS SERVICE

Book Sadhu for derogatory remarks against Dalits: Mevani

EXPRESS NEWS SERVICE

ON PM'S BIRTHDAY

Ahmedabad schools asked to organise programmes on Articles 370 and 35 A

All schools, including self-financed schools, are to arrange special lectures, essay and elocution competition, group discussions etc

Deadline for pollution certificates, high-security number plates extended

EXPRESS NEWS SERVICE

FOKIA
FEDERATION OF KUTCH INDUSTRIES ASSOCIATIONS
Visit us at : www.fokia.org

FEDERATION OF KUTCH INDUSTRIES ASSOCIATIONS

O/C
Vam
24/09/19

From :
Federation of Kutch Industries Associations,
Corporate and registered office
(Company registered Under Section -8)
5th Patel Towers, Near Jaynagar Bus Stop,
Mirzapur Road
Bhuj #370001
Phone 02832 230080,81

To,

Date: 19-September-2019

The Secretary
Gujarat Electricity Regulatory Commission,
6th Floor, GIFT ONE,
Road 5-C, Zone -5, GIFT CITY
Gandhinagar 382 355

Sub.: Submission of Affidavit and copies of Advertisements for Petition No. 1747 of 2018 for Additional Surcharge

Ref : GERC Oral Order dated 30.08.2019

Dear Sir,

We refer to the above oral order and submit herewith the **Affidavit in original** plus 4 copies along with copies of public advertisements appeared in the newspapers in connection with the subject petition as required.

Executive (Legal) Shri Varun / Dear A.O. Shri Varun keep relevant file and proceed. Copy to the Commission
24/9/19

G.E.R.C.
Inward No.- 4052
Date : 21 SEP 2019

24/9/2019

Yours Sincerely,
For and on Behalf of FOKIA

for
(Authorized Signatory)

Encl: As Above

BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY COMMISSION,AT AHMEDABAD
ORIGINAL REGULATORY JURISDICTION
PETITION NO. 1747 OF 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 Kutch Industries Associations& Anr.

...Petitioners

Versus

Gujarat Urja Vikas Nigam Limited& Ors.

...Respondents

AFFIDAVIT

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

1. That I amDirector 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 pursuant to order dated 30.08.2019 passed by this Hon'ble Commission public notice dated 13.09.2019 were published in two Gujarati newspapers, namely 'Sandesh' and 'Financial Express (Gujarati Edition)', and one English newspaper, namely 'Indian Express' inviting the stakeholders to file their objections/suggestions onaffidavit within 30 days from the date of issuance of public notice.

NOTARY RANJITSINH M. BHATTI Dist. Kachchh Gujarat State Regd. No. 9708/13 EXPIRY DT. 21-03-2023 GOVT. OF INDIA

20 SEP 2019

84

Copies of the public notices published in Gujarat dailies and English daily are appended hereto this affidavit as **Annexure A (Colly).**

4. That pursuant to order dated 30.08.2019 the Petitioner No. 1 has also uploaded the present petition along with all the relevantdocuments on its website for inviting suggestions/objections thereon.

5. That in the public notice it is clearly stated that the stakeholders shall file theirsuggestions/objections on the petition to the Secretary, Gujarat ElectricityRegulatory Commission, 6th Floor, GIFT ONE, Road 5C, Zone 5, GIFT CITY, Gandhinagar- 382 355 in five copies along with affidavit in support of theirsubmissions with a copy to the Petitioners.

6. That no part of the instant affidavit is false and nothing material has been concealed therefrom.

7. 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.

SERIAL NO.: 6199
DATE: 20/9/19
BOOK NO.: 01
PAGE NO.: 165
RANJITSINH M. BHATTI
NOTARY
GOVT. OF INDIA

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 20 SEP 2019 day of September, 2019.

DEPONENT

NOTARY
RANJITSINH M. BHATTI
Dist. Kachchh
Gujarat State
Regd. No. 9708/13
EXPIRY DT. 21-03-2023
GOVT. OF INDIA

NOTARIAL

SOLEMNLY AFFIRMED BEFORE ME

RANJITSINH M. BHATTI
NOTARY
GOVT. OF INDIA

20 SEP 2019

NO
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Dist.
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GOVT.

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GUJARAT CONFIDENTIAL

NETA NATTER

THE AHMEDABAD Urban Development Authority (AUDA) was severely criticised for the poor condition of the road from Rupal bridge to Shantipura Circle by Vice President of Gujarat BJP I K Jadeja on Thursday. Within a few hours after the senior leader wrote on Twitter, asking if officers of AUDA would walk on such a road and whether contractors would take no responsibility, AUDA sent its men and machinery to repair the road. While Jadeja posted another tweet commending AUDA's quick response, his original post got political tongues talking, especially in the BJP which is extremely image conscious. A party worker said it was possible that Jadeja's angst was against the bureaucracy, which is at the helm of affairs in the AUDA without a political leader as chairman.

WOOED, THEN DISMISSED

WHILE JOURNALISTS in Gujarat are getting used to unannounced visits or barring media from some public and party meetings, it came as a rude shock on Wednesday when Union Minister Ravi Shankar Prasad "curtly" asked mediapersons to leave the venue of an interaction between the state's industry leaders in manufacturing and information technology, at the Indian Institute of Technology, Gandhinagar. The minister had inaugurated a centre of excellence managed by NASSCOM there. What left mediapersons miffed was that they were treated this way after media houses had been bombarded with invites and reminders via text messages and phone calls from public relations agencies and the Press Information Bureau, asking them to attend the event just a few hours before it was to begin. The journalists had also been assured of a media interaction with the minister. So the organisers were left dumbstruck at the turn of events and had no option but to apologise.

Ahmedabad residents line up on Wednesday outside petrol pumps to get Pollution Under Control certificates for their vehicles in view of the amended Motor Vehicles Act. *Javed Raja*

Deadline for pollution certificates, high-security number plates extended

EXPRESS NEWS SERVICE
AHMEDABAD, SEPTEMBER 12

WHILE THE newly amended Motor Vehicles Act will come into effect in the state on September 16, the Gujarat government has extended the deadline for getting the Pollution Under Control (PUC) certificate and High Security Registration Number Plate (HSRP) for vehicles.

A notice of the Port and Transport Department on Thursday said the new deadlines for PUC certificates is September 30 and for HSRPs is October 16.

However, the last date to get licence, third-party insurance, and registration certificate of vehicles is still September 15.

"Taking a sympathetic approach, the state government has decided to push the last date for PUC and HSRP," the notice says.

On Tuesday, Gujarat lowered 18 categories of violations recently amended by the Union government. The state government slashed the penalty amount by 50%, 70% and even 10 times lower in 15 of them, which include driving without seat belt, riding without helmet, driving without licence, lacking pollution check certificate or registration, wrong side driving, illegal parking, over-speeding and triple riding.

SWAMINARAYAN SECT-MORARI BAPU ROW

Journalist, humorist return Ratnakar awards in protest

EXPRESS NEWS SERVICE
RAJKOT, SEPTEMBER 12

AFTER COMING controversy involving renowned Ram Katha exponent Morari Bapu and the saints of the Swaminarayan sect took a new turn Thursday as columnist Jay Vasavada and folk artists Mayabhai Ahir and Anubha Gadhavi announced that they were returning Ratnakar awards conferred on them by the Swaminarayan sect in protest against statements made by saints of the sect on Morari Bapu's remarks.

Morari Bapu during one of his kathas (religious discourses) recently remarked that Lord Shiva was the only true Neelkanth and not "ones that had even laddus". Some swamis of the Swaminarayan sect reacted angrily and sought to justify that Lord Swaminarayan was also a Neelkanth, questioning the knowledge of Bapu. As the issue snowballed into a controversy, Morari Bapu, speaking at an event, apologised, "if he had hurt anyone's sentiments".

Jay Vasavada, a Rajkot-based columnist, said he felt hurt by the statements made by the saints of Swaminarayan sect against Bapu and therefore he would return the Ratnakar award that he had been given by the Swaminarayan sect at an event in Sardhar village in Rajkot district in 2015 for his contributions to the field of writing. Vasavada said he would return the trophy and the Rs 21,000 cash that he had received as part of the award. "...I had accepted it (award) with happiness. It is conferred every year. It is a good thing and thank you for that. But it discomforts me to personally to hold on to this award today when the saints of their organisation have spoken in the manner belittling Morari Bapu," the columnist said. "As a bhavak (well-wisher) of Bapu, I do not feel it appropriate and moral to keep with me the citation given by them, as well as the Rs 21,000 cash that I got along with it," Vasavada wrote in a Facebook post in Gujarati.

He said his returning the award was not a boycott. "There is nothing like any boycott here at all. However the negative attitude of this particular organisation towards Bapu in general and Bapu's issue a little unrestrained about the Sanatan Dharma has certainly provoked me," the columnist added. He said he was not an agent of Bapu, just one of his followers.

In a video statement, Ahir, a humorist, said he had heard a statement made by Vivekswarup, a Swaminarayan sect functionary from Bagasara in Amreli district. Ahir said he was returning his Ratnakar award because Vivekswarup had insulted artists and Bapu. Ahir said that the swami had remarked that artists speak anything and take to the stage even drunk to win applause from the audience. "Such words do not behove the mouth of a saint. Then you clarified that you did not make that remark intentionally. This is like licking back one's spit," said Ahir. He continued: "Then you added that added that if you mean offence, you would not have conferred Ratnakar awards on artists at Sardhar. This is in fact nothing but one more insult. One does not (trumpet about) one's acts of charity. You have failed to maintain decorum. Thirdly, no artist would be able to forget the words that you have used for Bapu. So, swamis, we are respectfully returning the award you conferred on us."

Ahir said he was not a disciple of Bapu in the conventional master-disciple tradition but added that he considered himself to be Bapu's disciple at heart.

Bochasanwasi Akshar Purushottam Swaminarayan (BAPS), one of the two main subsects of Swaminarayan sect had appealed on Monday to its swamis and followers to put an end to the controversy and maintain decorum. "Whatever has happened recently over the issue of religious feelings having been hurt has happened. We humbly pray and request every saint and devotees, to every religious devout, saint and acharya to overcome any mutual grudge, discord and feud and strive and work for unity, service and upliftment of the Sanatan Hindu religion," a release from BAPS appealed.

Book sadhu for 'derogatory remarks against Dalits': Mevani

EXPRESS NEWS SERVICE
GANDHINAGAR, SEPTEMBER 12

Mevani

INDEPENDENT MLA from Vadgam constituency and Dalit leader Jignesh Mevani Thursday met Gujarat DGP Shivanand Jha and submitted an application seeking registration of an FIR against a sadhu of the Swaminarayan sect whose purported video showing him making derogatory remarks against Dalit community has gone viral on social media.

In his application, Mevani said that in the video, the sadhu is purportedly seen publicly insulting the self esteem of people of the Scheduled Castes. After the video went viral, the Dalit community got agitated and enmity has spread among communities, Mevani said.

The MLA sought to register an FIR under provisions of the Indian Penal Code, the Information Technology Act and Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. He added that more than 10 complaints have been lodged against the sadhu in various places in the state, but none of them has been registered as an FIR.

Mevani said, "I met the DGP and sought action against the sadhu at the earliest. The DGP told me that he has not seen the video. So, I have requested him to see the video at the earliest and get an offence registered."

ON PM'S BIRTHDAY

Ahmedabad schools asked to organise programmes on Articles 370 and 35 A

RITU SHARMA
AHMEDABAD, SEPTEMBER 12

All schools, including self-financed schools, are to arrange special lectures, essay and elocution competition, group discussions etc

A CIRCULAR issued by the Ahmedabad District Education Officer Rural and Ahmedabad District Education Officer City on Thursday asked all government, grant-in-aid and self-financed secondary and higher secondary schools to arrange special lectures, debate, essay and elocution competition, group discussions and other similar contests on the subject of Article 370 and Article 35A of the Constitution during the school assembly on Prime Minister Narendra Modi's birthday (September 17).

The circular directs all school principals to submit all details of the events along with photographs to the office of director secondary education by September 18.

"Under Indian Constitutional Article 370 and 35 A, the Indian Parliament has taken appreciative and people-oriented step which has received a lot of appreciation from the entire country. The country has received a foremost identity in the world," the circular reads.

There are an estimated number of 2.75 lakh students enrolled in nearly 1,050 secondary and higher secondary schools (government, grant-in-aid and self financed) in both Ahmedabad rural and city. Among these, nearly 600 secondary and higher secondary schools are in the city with about 1.5 lakh students and 450 secondary and higher secondary schools in the rural with an enrollment of 1.25 lakh.

"This touches the Social Science subject of secondary and higher secondary education. ...September 17 is Prime Minister's birthday. So on this day, all schools should arrange in the morning assembly session elocution competition, debate competition, group discussion and essay competition along with other competitions by experts so that the students get to understand Article 370 and 35 A," the circular states.

The schools have been asked to submit the details along with pictures of the events with the Shala Vikas Sankool (SVS). It is a centre for a group of schools. The SVS will then send the documents to the director of secondary education office by September 18.

Expressing ignorance about the circular, principal secretary, education, Vinod Rao said, "I have no idea who has issued it and when. I am hearing it from you only."

When contacted, Rakesh Vyas, District Education Officer (DEO) Rural, said, "Every school has a Social Science corner and this is a current affairs topic which the students should have an understanding and awareness about. Also, through this we aim to make students understand the proceedings of the Parliament."

R C Patel, Ahmedabad District Education Officer City, said, "During our discussion it came up that many students do not know about Article 370 and 35A. It is related to Social Science, so what is wrong in it (schools holding these competitions on this subject)? When competitions are already held in schools on this subject individually, why not do it collectively?"

On choosing Modi's birthday for this, Vyas said, "Since we had to keep it on a day, we decided to hold it on PM's birthday."

"Some people might raise objection to the mention of PM, but we have not named anyone in the circular other than the post. We have not written Narendra Modi but Prime Minister, so no one should have an objection with the position."

20 SEP 2019

રાજ્યના ૭૫ તાલુકામાં સિઝનનો ૪૦ ઈંચથી વધુ વરસાદ

રાજ્યમાં ૧૧૮.૧૧ ટકા વર્ષા, ઉ.ગુ.માં માત્ર ૭ ટકા ઘટ

ખંભાળિયામાં ૨૪ કલાકમાં આઠ ઈંચ સાથે ગુજરાતના ૪૭ તાલુકામાં નોંધપાત્ર વરસાદ વરસ્યો

| અમદાવાદ |

રાજ્યમાં છેલ્લા ૨૪ કલાકમાં સૌથી વધુ ખંભાળિયામાં આઠ ઈંચ સહિત ૪૭ તાલુકાઓમાં નોંધનીય વરસાદ વરસ્યો છે. ચોમાસાની સિઝનમાં અત્યાર સુધીમાં એટલે કે, ૧૨મી સપ્ટેમ્બરના સવારના ૬ વાગ્યા સુધીમાં એવરેજ ૧૧૮.૧૧ ટકા વરસાદ પડ્યો છે. બીજી તરફ ઉત્તર ગુજરાતમાં હજુ પણ ૭ ટકા વરસાદની ઘટ વર્તાઈ છે. ઉત્તર ગુજરાતમાં આવતા વિસ્તારમાં મોસમનો કુલ ૯૩.૭૪ ટકા વરસાદ પડ્યો છે. જ્યારે સૌથી વધુ કચ્છમાં ૧૪૨.૧૮ ટકા અને દક્ષિણ ગુજરાતમાં ૧૨૭.૭૭ ટકા વરસાદ ખાબક્યો છે. ઉલ્લેખનીય છે કે, રાજ્યના ૭૫ તાલુકામાં ૪૦ ઈંચથી વધુ વરસાદ થયો છે. જ્યારે ૧૫૦ તાલુકામાં ૨૦થી ૪૦ ઈંચ જેટલો અને ૨૧ તાલુકામાં ૧૦થી ૨૦ ઈંચ જેટલો વરસાદ નોંધાયો છે. સ્ટેટ ઈમરજન્સી ઓપરેશન સેન્ટરે જારી કરેલી વિગતો પ્રમાણે, ગુરુવારની સવારે સુધીના ૨૪ કલાકમાં દેવભૂમિ દ્વારકાના ખંભાળિયામાં ૨૦૩ મિમી એટલે કે આઠ ઈંચ વરસાદ વરસ્યો હતો. જ્યારે રવસાડ તાલુકામાં ૧૧૦ મિમી, ઉમરપાડામાં ૧૦૮ મિમી અને જામજોધપુરમાં ૧૦૨ મિમી વરસાદ પડ્યો હતો.

સૌરાષ્ટ્ર : ભાણવડમાં પાંચ, પોરબંદર, અમરેલી જિલ્લામાં ત્રણ ઈંચ વરસાદ

રાજકોટ : સૌરાષ્ટ્રમા દ્વારકા, જુનાગઢ, પોરબંદર, અમરેલી જિલ્લામા મેઘસવારી ચાલુ રહી હતી. ભાણવડ પથકમા ૫ ઇંચ વરસાદ પડયો હતો. પોરબંદર અને અમરેલી જિલ્લામા અઢીથી ત્રણ અને જુનાગઢ જિલ્લામા આખાંથી અઢી ઇંચ પાણી પડ્યુ હતુ. પોરબંદર પથકમા વધુ બેથી ત્રણ ઇંચ વરસાદ પડયો હતો. દેવભૂમિ દ્વારકા જિલ્લાના ભાણવડના રાણપરમા પાંચ વરસાદ પડયો હતો. માણાવદરમા દોઢ ઇંચ અને મેંદરડામા ઝાપટા વરસ્યા હતા. અમરેલી જિલ્લામા ધારી પંથકમા ત્રણ ઇંચ વરસાદ પડયો હતો.

ઉત્તર ગુજરાતનાં ૧૫ જળાશયો ૫૩.૬૩ ટકા ભરાયાં

રાજ્યના કુલ ૨૦૪ જળાશયોમાં ૪,૬૩,૮૩૪ ૨૮ એમ.સી.એફ.ટી જળસંગ્રહ જે કુલ સંગ્રહ શક્તિના ૮૪.૬૭ ટકા થાય છે. આ પૈકી ૮૦ જળાશયો એવા છે કે જેમા ૧૦૦ ટકા કરતા વધુ ભરાઈ ચૂક્યાં છે. બીજી તરફ ઉત્તર ગુજરાતના ૧૫ જળાશયો હજુ માત્ર ૫૩.૬૩ ટકા જ ભરાયા છે. જોકે સરદાર સરોવરમા ૩,૧૬,૨૭૪.૦૮ એમ.સી.એફ.ટી જળસંગ્રહ જે કુલ સંગ્રહ શક્તિના ૯૪.૬૭ ટકા ભરાયુ છે. સૌથી વધુ મધ્ય ગુજરાતના ૧૭ જળાશયોમા ૯૬.૧૦ ટકા પાણીનો સંગ્રહ થયો છે.

સૌરાષ્ટ્ર, દક્ષિણ-મધ્ય ગુજરાતમાં બે દિવસ ભારે વરસાદની હવામાન ખાતાની આગાહી

બાંગ્લાદેશ, ઉત્તર મધ્ય પ્રદેશ સહિતના દક્ષિણ-પશ્ચિમ ઉત્તર પ્રદેશ, ઉત્તર છત્તીસગઢ, ઝારખંડ અને પશ્ચિમ બંગાળની ખાડીમાં લો-પ્રેશર તથા ઉત્તર પૂર્વ સમુદ્રમા અપર એર સાઈક્લોનિક સર્ક્યુલેશનની સિસ્ટમ હજુ સક્રિય હોવાથી દક્ષિણ અને મધ્ય ગુજરાતના કેટલાક ભાગ તેમજ સૌરાષ્ટ્રમાં આગામી બે દિવસ ભારે વરસાદની આગાહી કરવામા આવી છે. જેમા પ્રથમ દિવસે સુરત, તાપી, પંચમહાલ, મહિસાગર, દાહોદ, નવસારી, વલસાડ, દમણ, દાદરા નગર હવેલી તથા સૌરાષ્ટ્રના પોરબંદર અને જુનાગઢમા ભારે વરસાદ પડી શકે છે. બીજા દિવસે સુરત, તાપી, નવસારી, વલસાડ, દમણ અને દાદરા નગર હવેલીમા ભારે વરસાદની શક્યતા વ્યક્ત કરાઈ છે.

ગાંધીનગર આઈઆઈટીને પ્રથમ વખત વર્લ્ડ યુનિવર્સિટી રેન્કિંગ્સમાં સ્થાન મળ્યું

| અમદાવાદ |

જાહેર નોટિસ

ગુજરાત ઇલેક્ટ્રિસીટી રેગ્યુલેટરી કમિશન (જર્ક) સમક્ષ

... આ નોટિસ ... સેક્રેટરી, ગુજરાત ઇલેક્ટ્રિસીટી રેગ્યુલેટરી કમિશન (જર્ક) ...

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જન્મદિન મુબારક

રાજ્યના ૭૫ તાલુકામાં સિઝનનો ૪૦ ઈંચથી વધુ વરસાદ

રાજ્યમાં ૧૧૮.૧૧ ટકા વર્ષા, ઉ.ગુ.માં માત્ર ૭ ટકા ઘટ

ખંભાળિયામાં ૨૪ કલાકમાં આઠ ઈંચ સાથે ગુજરાતના ૪૭ તાલુકામાં નોંધપાત્ર વરસાદ વરસ્યો

સૌરાષ્ટ્ર : ભાણવડમાં પાંચ, પોરબંદર, અમરેલી જિલ્લામાં ત્રણ ઈંચ વરસાદ

ઉત્તર ગુજરાતનાં ૧૫ જળાશયો ૫૩.૬૩ ટકા ભરાયાં

સૌરાષ્ટ્ર, દક્ષિણ-મધ્ય ગુજરાતમાં બે દિવસ ભારે વરસાદની હવામાન ખાતાની આગાહી

જાહેર નોટિસ

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ગાંધીનગર આઈઆઈટીને પ્રથમ વખત વર્લ્ડ યુનિવર્સિટી રેન્કિંગ્સમાં સ્થાન મળ્યું

વૉટર પમ્પિંગ સ્ટેશનોના પ્લાન્ટમાં ક્લોરીન ગેસ ડિટેક્શન સિસ્ટમ લગાવાશે