

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Suo-Motu Order No. 07 of 2020**

**In the matter of:**

**“Filing of application for determination of Aggregate Revenue Requirement (ARR) and tariff for FY 2021-22.”**

**CORAM**

**Shri Anand Kumar, Chairman  
Shri Mehul M. Gandhi, Member**

**Date: 22.12.2020**

**Order**

1. ‘Determination of Tariff for supply of Electricity’ is one of the important functions of the State Electricity Regulatory Commission as provided in the Section-86 of the Electricity Act, 2003. The Act provides that: -

*“Section 86. (Functions of State Commission): --- (1) The State Commission shall discharge the following functions, namely: -*

*(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:  
Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers; “*

2. Further, the Act also provides that-

*“Section 61. (Tariff regulations):*

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

3. Accordingly, the Gujarat Electricity Regulatory Commission (hereinafter, ‘the Commission’) has been specifying the Regulations from time to time covering terms and conditions for the determination of tariff. At present the GERC (Multi-Year Tariff) Regulations, 2016 been notified on 29.03.2016 is in force till 31<sup>st</sup> March 2021.

4. The process for framing the MYT Regulations for new Control Period of FY 2021-22 to FY 2025-26 was initiated by issuing public notice dated 10.08.2020. However due to prevailing circumstances and reasons beyond the control of

the Commission, the process related to framing of the MYT Regulations is delayed.

5. In the meantime, the Commission is in receipt of the requests from the Gujarat Urja Vikas Nigam Limited and Torrent Power Limited to provide necessary clarification/ guidance for preparation and submission of ARR and Tariff Determination for FY 2021-22.
6. The Commission has also noted that the procedure and process of framing new MYT Regulations required to be started afresh and accordingly it will not be possible to finalize the determination of tariff for FY 2021-22 within the reasonable time frame under the proposed MYT framework.
7. Further, the Commission is also of the opinion that it may be difficult for the utilities to make realistic projections and business plan for the 5- year control period in view of the prevailing circumstances at present.
8. In view of the above, it is proposed to defer the 5- year control period for new MYT Regulations for one year and consider the control period from FY 2022-23 to FY 2026-27. Accordingly, all the concerned utilities and licensees are directed to file annual ARR for FY 2021-22 and application for determination of tariff for FY 2021-22 based on the principles and methodology as provided in the GERC (Multi-Year Tariff) Regulations, 2016.
9. The GERC (Multi-Year Tariff) Regulations, 2016 provides that:-

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

....

#### *7. Saving of Inherent Power of the Commission*

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

*7.2 Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.*

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

..

#### 12. Power of Relaxation

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

10. In view of the background and reasons mentioned above and looking to the requirement and importance of timely determination of tariff for supply of electricity, it is proposed to defer implementation of new MYT control period by one year and adopt the determination of annual ARR and determination of tariff for FY 2021-22. Further, it is also proposed to direct all the regulated Generating Stations, Transmission Licensee, SLDC and Distribution Licensees (including deemed Licensees) to file application/ petition for the determination of Annual ARR for FY 2021-22 and proposal for determination of tariff for FY 2021-22 on or before 31<sup>st</sup> December 2020.
11. A draft Order in this matter was published and Public Notices dated 05.12.2020 were issued in daily newspapers for inviting comments in this matter. The list of stakeholders who have submitted their comments in this matter is as given here below-

<b>Sr.No.</b>	<b>Name of the Stakeholder</b>
1	Gift Power Company Limited
2	Kaira District Cooperative Milk Producers' Union Limited
3	Gujarat Urja Vikas Nigam Limited
4	Shri H. J. Patel
5	Shri G. R. Darji
6	Shri Vishnubhai Desai
7	Shri K. K. Bajaj
8	Torrent Power Limited
9	Utility Users' Welfare Association

12. The comments and suggestions along with the analysis and decision are given in the following paragraphs.
13. It was proposed to defer the five-year control period for new MYT Regulations for one year and consider the control period from FY 2022-23 to FY 2026-27 and hence it is required to adopt annual determination of ARR for the FY 2021-22.

The utilities and other stakeholders agreed with the background and views expressed in the draft Order and have welcomed the proposal. **Accordingly, the Commission decides to adopt the determination of annual ARR for FY 2021-22 and defer the next MYT Control period by one year.**

14. It was also proposed to direct all the regulated Generating Stations, Transmission Licensee, SLDC and Distribution Licensees (including deemed Licensees) to file application/ petition for the determination of Annual ARR for FY 2021-22 and proposal for determination of tariff for FY 2021-22 on or before 31<sup>st</sup> December 2020. However, some licensees have submitted that the proposed time period is short and requested for extension.
15. Looking to the importance of timely issuance of Tariff Orders for the FY 2021-22, it is require to start the regulatory process within the desirable timeframe. Further, the draft Order in this regard was issued on 5<sup>th</sup> December 2020 and all concerned utilities were also informed to initiate action in this regard accordingly. **The Commission decides to extend the last date for submission of aforesaid petitions further by one week and all the concerned utilities are now directed to file the tariff petition based on principles and methodology as provided in the GERC (Multi- Year Tariff) Regulations, 2016 on or before 8<sup>th</sup> January 2021.**
16. Shri G. R. Darji has submitted that the utilities may be directed to file the tariff petitions with all the details and in such a format that it will be easy to analyze the details.
17. Utility Users' Welfare Association (UUWA) has submitted that it has filed separate petition for directing Discoms/GUVNL to submit petitions as per their performance as contemplated in MYT Regulations, preamble of Electricity Act,2003, other regulations, National Tariff Policy, National Electricity Policy, Competition Act,2000 and Hon'ble APTEL judgments. It is also mentioned by the UUWA that the petition in question is submitted in response to the advertisement wherein the comments/suggestions of stakeholders are invited for tariff determination (ARR) of all licensees of Gujarat State. UUWA has also requested the Commission to decide this petition on top priority in the interest of justice and oblige.
18. In view of the above, all the concerned utilities are directed to file the tariff petition with all the requisite details and formats as provided in the MYT Regulations, 2016 and Directives and Orders issued in this regard from time to time. The Commission also noted submission from the UUWA related to filing of separate petition in the matter. The Commission will process this separate petition in accordance with the GERC Regulations.

19. It is noted by the Commission that the State-Owned utilities have filed their petition regarding truing up for FY 2019-20 in accordance with the MYT Regulations, 2016. Licensees and utilities, who have not filed truing up petition yet are hereby directed to file their petition regarding truing up for FY 2019-20 in accordance with the MYT Regulations, 2016 along with the petition for determination of ARR and Tariff Proposals for FY 2021-22.
20. Further **all the licensees and regulated generating companies are directed to publish a notice of submission of their petitions for Truing-up for FY 2019-20, Determination of ARR and Tariff Proposal for FY 2021-22 in accordance with the MYT Regulations, 2016 on or before 13<sup>th</sup> January 2020.**
21. Shri Vishnubhai Desai has submitted suggestions related to amendments in MYT Regulations. We have taken note of the same and it may be considered while finalizing the new MYT Regulations.
22. Kaira District Cooperative Milk Producers' Union Limited and Shri H. J. Patel have submitted suggestions related to tariff structure and tariff charges. We have taken the note of these suggestions and same may be considered at the time of finalizing the relevant Tariff Orders.
23. The Commission also takes note of suggestion from Shri K. K. Bajaj regarding expediting decision on pending cases.
24. We Order accordingly.

-Sd-  
**(Mehul M. Gandhi)**  
**Member**

-Sd-  
**(Anand Kumar)**  
**Chairman**

Place: Gandhinagar

Date: 22.12.2020