

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1788 of 2019

And

Petition No. 1789 of 2019

In the matter of:

Petition under Section 86 (1) (a) and (f) and Section 61 of the Electricity Act, 2003 read with Regulation 9 of the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 for recovery of expense from consumer.

Petitioners: Shri TechTex Private Limited (Petition No. 1788 of 2019)
Shakti Polyweave Pvt. Limited (Petition No. 1789 of 2019)

Represented by: Mr. Vikram Shah

V/s.

Respondent No. 1: Gujarat Energy Transmission Corporation Limited (For both the Petitions)

Represented by: Ld. Adv. Ranjitha Ramachandran with S. K. Nair and H. G. Kariya

Respondent No. 2: Uttar Gujarat Vij Company Limited (For both the Petitions)

Represented by: K. B. Chaudhari

CORAM:

Anil Mukim, Chairman

Mehul M. Gandhi, Member

Order

Date: 28/06/2024

1. These two Petitions are filed under Section 86 (1) (a) and (f) and Section 61 of the Electricity Act, 2003 read with GERC (Licensee's Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005.
2. These Petitions arise from similar cause of actions, facts and circumstances raising common issues leading to common arguments advanced by the same representatives of

the Petitioners and the same Learned Advocate and Representatives of the Respondents. They are, therefore, heard together and being disposed of by this common Order.

2.1. The Petitioners are companies registered under the provisions of the Companies Act and engaged in the business of manufacturing of Plastic yarn, cloth and related products. Respondent GETCO is transmission licensee in the State of Gujarat for transmission of power and is empowered to collect transmission and miscellaneous charges as per Regulations of the Commission. Respondent UGVCL is distribution licensee for the areas of the Petitioners and is supplying power to the units of the Petitioners.

2.2. By the present Petitions, the Petitioners have prayed for the following reliefs:

- (i) to admit the present petitions,
- (ii) to declare, proportionate line charge and cost contribution charges are arbitrary and illegal according to the Electricity Act, 2003 and GERC (Licensee's Power to Recover Expenditure incurred in providing Supply and other Miscellaneous Charges) Regulations, 2005,
- (iii) to direct Respondents to cancel the administrative approval No. 4030 dated 23.11.2017 by Respondent GETCO allowing them to collect line charges against law and Regulations from the applicants or consumers of a particular area which is against natural law of justice and discriminatory in nature,
- (iv) to direct the Respondent to refund all such charges, collected under head of proportionate charges and cost contribution charges from the Petitioners with interest,
- (v) to grant any other and further reliefs as may be deemed fit and proper in the interest of justice.

2.3. This matter has remained pending before the previous Commission and after retirement of the Member/Chairman and recusal by one of the Members of the present Commission, this Bench has heard this matter finally.

3. Brief facts of the Petitions:

3.1. The Petitioners having units at Dholka area are consumers of Respondent UGVCL. Details of contract demand and additional capacity applied are as under;

Petitioner	Original Contract Demand with Respondent UGVCL	Additional Contract Demand applied for	Total contract demand with

			Respondent UGVCL
Shri TechTax Pvt. Ltd.	500 kVA	200 kVA + 550 kVA	1250 kVA
Shakti Polyweave Pvt. Ltd.	475 kVA	225 kVA	700 kVA

3.2. For additional contract demand, the Petitioners were served estimate as detailed below;

Petitioner	Additional demand applied for	Estimate served date	Estimate provided
Shri TechTax Pvt. Ltd.	200 kVA	14.02.2018	(i) Contribution towards cost of capital assets to GETCO- Rs. 180000 (ii) Proportionate line charges to cater power from 66 kV Dholka GIDC S/S – Rs. 859642 (iii) Service connection charges – Rs. 14300 (iv) Security deposit – Rs. 1309777 Total – Rs. 2363719
	550 kVA	21.06.2018	(i) Contribution towards cost of capital assets from DISCOM/ Beneficiaries on pro-rata basis- Rs. 632500 (ii) Proportionate line charges to cater power from 66 kV Dholka GIDC S/S – Rs. 2364016 (iii) Service connection charges – Rs. 20800 (iv) Security deposit – Rs. 3497672 Total – Rs. 6514988
Shakti Polyweave Pvt. Ltd.	225 kVA	26.02.2018	(i) Contribution towards cost of capital assets to GETCO- Rs. 202500 (ii) Proportionate line charges to cater power from 66 kV valdhara S/S – Rs. 967097 (iii) Service connection charges – Rs. 119825 (iv) Security deposit – Rs. 373041 Total – Rs. 1662463

3.3. As per estimate, first two items are collected by Respondent UGVCL on behalf of Respondent GETCO for new connection or additional load demand in HT connection. In the detailed estimate, it is mentioned that GETCO is collecting Rs. 4,298.21 per KVA as contribution towards proportionate line charges to cater the HT power from 66 KV Dholka GIDC S/S and 66 kV Valthara S/S approved vide ACE(R&C)/EE-C/DE/4030 dated 23.11.2017. In the service connection charge also cost contribution charges @ Rs. 469 per kVA is collected under approval no. UGVCL/ Regd./ Com/17926/2439 dated 16.10.2014.

3.4. Against such arbitrary collection of pro-rata charges, the Petitioners approached Respondent UGVCL where it was informed that proportionate charges to cater HT power are collected as per administrative approval by Respondent GETCO.

3.5. Against such arbitrary collection of pro-rata charges, the Petitioners approached Consumer Grievances Redressal Forum. Consumer Grievances Redressal Forum vide order dated 10.09.2018 observed following;

*4.7 Accordingly, recovery of prorata charges of Rs. 4298.21 per KVA for new and additional load of HT/EHT connection as per administrative approval for system requirement vide approval No. ACE/R&C/EE-C/DE/4030 dated 23.11.2017 for line strengthening is **contradictory** to GETCO's commercial circular No. 1.*

4.8 Pro-rata recovery of Rs. 4298.21 per KVA as per administrative approval No. ACE/R&C/EE- C/DE/4030 dated 23.11.2017 is not approved by GETCO Board as informed by A.C.E. (R&C), GETCO, Vadodara during hearing.

4.9 copy of administrative approval No. ACE/R&C/EE-C/DE/4030 dated 23.11.2017 of GETCO for recovery of Rs. 4298.21 per KVA is not given to GERC.

4.10 Administrative approval No. ACE/R&C/EE- C/DE/4030 dated 23.11.2017 of GETCO for recovery of Rs. 4298.21 is not circulated through GUVNL.

4.11 It is a procedural lapse.

4.12 Post facto approval is to be obtained from GERC for recovery of pro-rata charge of Rs. 4298.21 per KVA for new & additional load of HT & EHT connection for strengthening of 66 KV network for the lines emanating from 220 KV Salejada S/S (i) 66 KV valthera, (ii) 66 KV Dholka GIDC & (iii) 66 KV Pisawada Sub station, decision of GERC shall be final.

(Emphasis added)

3.6. As per the above Order of the Consumer Grievances Redressal Forum, the additional charges collected by GETCO, is contradictory to GETCO Circular No. 1 and the

administrative approval issued by GETCO authority is not approved by any of the competent authority like, GETCO board, the Commission or Gujarat Urja Vikas Nigam Limited.

3.7. Further, the Respondents were asked to obtain post facto approval from the Commission but till date, after more than 4 months from the date of the CGRF Order. Respondents have not initiated any procedure to obtain post facto approval or refund the amount in lieu of such approval. So the Petitioner are obligated to file these present petitions before the Commission not to grant such post facto approvals to collect contribution charges from the applicants as the same is contradictory to Regulations of the Commission.

Grounds for the present petitions:

3.8. The non-implementation of impugned order and asking for approval of the Commission for scheme approved by the Respondents as per law and related Regulations by the Respondents.

3.9. Consumer Grievances Redressal Forum has failed to appreciate that in the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2011 it is clearly mentioned Regulation 1.2 that these regulations shall be applicable to all the distribution licensee in Gujarat in their respective license area. Thus, the administrative approval for proportionate line charges to cater the HT power granted by Respondent GETCO, is not covered under the said Regulations as the same is applicable to Distribution Licensee of the area only. Accordingly, it is necessary to file a petition with the Commission for clarification regarding charges to be collected by the transmission licensee GETCO.

3.10. Consumer Grievances Redressal Forum has failed to appreciate that Consumer Grievances Redressal Forum and Ombudsman do not have regulatory power or adjudatory power to interpret the proviso of the Electricity Act 2003 or Regulations framed by the Commission regarding charges to be collected by respondents, for recovery of expense and GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005.

3.11. As per the order of the Consumer Grievances Redressal Forum also, the decision of the Commission will be final regarding additional charge collected by Respondent GETCO. Till date of filing the present petitions the Respondents had not initiated any proceedings to clarify the matter from the Commission or informed to the Petitioners about steps taken in response to the order of the Consumer Grievances Redressal Forum.

3.12. Furthermore, it was informed by the Respondent that the charges are recovered in line with chapter – V of the GERC (Licensee's Power to recover Expenditure incurred in

providing supply and other miscellaneous charges) Regulations, 2005. After examining the said notification 09 of 2005, following sections have been produced:

Section 3 (iii):

Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity, any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant.

As per the said Section, the distribution licensee can recover reasonable cost from a consumer only for line provided specifically for the purpose of giving such supply to particular consumer. In other word charges cannot be recovered for the line which is already existing or approved before the application and especially not erected for the consumer.

Section 5 (i)

In case of applications where there is a need to erect a new HT line or EHT line from the substation or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in co-ordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of afore mentioned work including the cost of terminal and metering arrangements at the premises of the consumer, but not including the cost of meter. Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.

As per above section 5 (i), the estimate shall be prepared only when there is a need to erect a new HT line or EHT line, in order to extend supply to the applicant. In the proportionate line charge recovery by Respondent GETCO, it is never mentioned that the EHT / HT line is required to be strengthen specifically to release load extension sought by the Petitioners. The date of approval for proportionate line charge by Respondent is earlier than the date of application for load extension. In other word, it is confirmed that the EHT / HT lines under said approved scheme are not erected or strengthen precisely to cater additional power demand of the Petitioners. In that case, as per the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005, the proportionate cost per kVA collected by Respondents should be refunded.

3.13. In the present case Respondent GETCO collected charges from the Petitioners under the guise of pro-rata charges while there is no such provision of collection of pro-rata charges in the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005. The charges collected by respondents are arbitral, illegal and against the said Regulations. The same should be refunded to the Petitioners with interest as the same is against the Electricity Act 2003 and GERC Regulations for the same.

3.14. Furthermore, in the GETCO Commercial Circular No. 1 issued vide No. ACE(R&C)/EE-C/DE-2/585 dated 30.11.2006 it is mentioned that;

The charges towards line, transformer centers and service connections shall be recovered strictly as per provisions prescribed by GERC at Sr. No. 4 & 5 under notification 9 of 2005

Where Section 4 is regarding LT supply and proviso of section 5 is already discussed above. No proviso has allowed to collect proportionate line charge already sanctioned before the date of application for load extension by the Petitioners.

Further, in the Order, Consumer Grievances Redressal Forum has referred to the said circular no. 1 as provided below:

The pro-rata charge do not include the cost of lines. In case of application where there is a need to erect a new EHT line from the substation along with bay equipment or extend existing EHT line or strengthen existing EHT line for the applicant/beneficiary, an estimate shall be prepared for the applicant/beneficiary and its entire cost must be recovered from that applicant/ beneficiary though the capacity of the line may be more than the consumers requirement.

From above para of the commercial circular no. 1, it is clear that,

- The pro-rata charges do not include the line charges.
- In case of application where new EHT line to be erected with bay, extend existing EHT line or strengthen existing EHT line is required than estimate should be prepared for the applicant for which such augmentation is required.
- No cost of substation is to be recovered from the applicant.
- Entire cost of EHT line should be recovered from **that** applicant (First applicant) only even if the capacity of line more than the consumers requirement.

- As the entire cost of the line is to be recovered from the applicant/s for whom the line is erected and no cost of substation is to be recovered from any other applicant, no estimate should be prepared for subsequent applicants who is receiving power from such facility except pro-rata cost to be collected as per commercial Circular no.1.
- Considering above facts, the proportionate line charges collected by the respondent 1 is violation of circular issued by the respondent itself and also in violation of GERC regulations issued vide Notification 9 of 2005.

3.15. Consumer Grievances Redressal Forum has failed to appreciate the reason for which the administrative approval is granted by the competent authority of Respondent GETCO for strengthening the network of Dholka area. It is not mentioned in the proposal why special drive is taken on hand to strengthen the EHT line network. Normally, the work is taken on hand under System Improvement Scheme passed by GETCO. The EHT line is extended / augmented when the need arises either considering load projection or required for a consumer or group of consumers who had applied for power. When the work is done under SIS the cost is not collected from any individual. One such scheme for FY 2012-13 is available on website of Respondent GETCO. It is requested to the Commission to order the Respondent GETCO to provide such schemes for other financial years till date.

3.16. Moreover, there is no such policy available in public domain issued by Respondent GETCO to decide which line is to be erected under system improvement scheme or under new development. It is also requested to Respondents to inform about the policy for erection of new EHT line and its approval from competent authority.

3.17. Consumer Grievances Redressal Forum has failed to appreciate that as per GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005, the cost of line is to be collected only from that consumer or group of beneficiaries; for which that particular line is erected or strengthened. The related regulation of such circular no.1 is reproduced below:

Its entire cost must be recovered from that applicant/beneficiary though the capacity of the line may be more than the consumer's requirement.

Thus, there is no provision of collecting the cost from the beneficiaries who had not applied at the time of approval for that line. So such collection of cost, for the work which is already sanctioned or completed before the date of application by a consumer under the head of proportionate line charge; is against the commercial circular 1 by Respondent GETCO itself and same should be refunded.

3.18. In regard to development of Dholka area, there is no special industrial development scheme declared by Government of Gujarat which projects the un-precedential industrial growth of this area. In fact this proportionate charges collected by GETCO has almost stopped the industrial growth of this area. No new industry will setup its plant in this area because of additional cost of approximately Rs. 4300 or 3025 per KVA. Such Discriminatory approach of the respondents clearly violates article 14 (Right to equality) and article 21 (Right to livelihood) of the Indian constitution as in most of the cases in Gujarat the EHT lines are erected / augmented without collecting any charges from the consumers, under system Improvement Scheme.

3.19. Respondent GETCO had circulated a list titled;

"Details of district wise substations for RE integration as on March 2018"

This is the list of substation where RE (Solar or Wind) evacuation capacity is available. In other word, the lines connecting those substations with grid can carry current for the RE power evacuated through the particular 66 KV substation. The said list also mentions about the available sub stations from Dholka Taluka of Ahmedabad district. All substations for which line capacity is modified under administrative approval issued by respondent 1 vide No. 4030 dated 23.11.2017, are included in the list.

The evacuation capacity of 30-40 MW is available from all 66 KV S/S of for which line is strengthened or proposed to be strengthened vide administrative approval dated 23.11.2017. Moreover, As per approval No. 4030 dated 23.11.2017, 45 MVA capacity is added by new line from 220 KV Salejada S/S to 66 KV Simej S/S and 90 MVA capacity added from 220 KV Salejada S/S to 66 KV Piswada S/S and 220 KV Bhat S/S to 66 KV Dholka S/S.

This approval of capacity addition clearly indicates that the capacity is added for a particular purpose including RE-evacuation and it is decided to collect cost of that development from innocent applicant/consumer of Dholka area.

3.20. Furthermore, an action taken by Respondents is also contradictory to Section 46 (Power to recover expenditure) of the electricity Act 2003 which provides that,

The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

As per the said section, the distribution license charge any expense which is **reasonably** incurred in providing any line used for **the purpose of giving that supply**. In other word, the consumer cannot be forced to pay for the line which is not erected for purpose of giving supply to the applicant. Accordingly, the charges covered under the head "proportionate line charges" by Respondent is against the proviso of constitute of India and Indian Electricity Act 2003 and should be refunded.

4. Reply from Respondent GETCO: Respondent GETCO submitted its reply vide affidavit dated 28.05.2020 as under:

4.1. The Petitioners have objected to the levy of proportionate charges for granting the additional load. Except the revision in the rates applicate at different voltage level class, all other procedure for recovering the pro- rata charges was mentioned in the Commercial Circular No 1 issued on Date 30-11-2006, relevant para of which reads as under;

Quote

The charges towards lines, transformer centers and service connection shall be recovered strictly as per provisions prescribed by GERC at Sr.no. 4 & 5 under Notification No.9 of 2005 and such cost shall be derived as per latest standard cost data in force from time to time. Such charges shall be recovered from all new as well as existing consumers/ beneficiaries demanding additional load on their contract demand excluding following categories:

- a) **Agricultural consumers** with the exception of Agricultural connection to be given under special schemes like "Tatkal Scheme" which may be brought out in future.
- b) **Water works and Sewerage Pumps** operated by/for any local authority other than Municipal Corporation.
- c) **Domestic consumers.**
- d) **Commercial consumers upto 100 KVA/125 HP** of contract demand.

Accordingly, the cost of transmission sub-station equipment's is estimated as per annexure enclosed and the pro-rata charges are worked out on the basis of latest cost data/last purchase price as below:

Amount payable by the applicant = $K \times (P/Q)$

Where, P = Cost of sub-station transformer including switchgears such as isolator, L.A., breaker, structure, bus-bar, earthing etc.

Q = Rated capacity of sub-station transformer.

K = Contract load in KVA.

The average cost incurred for providing the facility connected to a sub- station on per KVA basis as per above formula is to be recovered from the beneficiaries. Considering the cost incurred towards augmentation of existing sub-stations and installation for switchgears, the amount payable by the applicant/beneficiary depending on the voltage class is as follows:

<i>Sr. No.</i>	<i>Voltage class at which the beneficiary is embedded to GETCO</i>	<i>Per KVA / HP charges to be recovered in Rs.</i>
1	11/22 KV	1770/-
2	66 KV	1115/-
3	132 KV	1090/-
4	220 KV	1070/-

The pro-rata charges shall be updated periodically from time to time and circulated accordingly for necessary recovery.

*The pro-rata charges **do not include the cost of lines**. In case of application where there is a need to erect a new EHT line from the sub-station along with bay equipment or extend existing EHT line or strengthen existing EHT line for the applicant/beneficiary, an estimate shall be prepared for the applicant/beneficiary and its entire cost must be recovered from that applicant/beneficiary though the capacity of the line may be more than the consumer requirement.*

Such charges shall be paid by consumer/beneficiary over and above the aforesaid charges.

Unquote

However, the computation for the pro-rata charges in the table does include the cost of lines. The cost for the erection or extension or strengthening of the line is to be prepared separately and is recovered from the beneficiary. The charges are to be recovered from existing as well as new consumers as stated in the opening part of the Commercial Circular No. 1.

The reason for this is that it would otherwise be inequitable to recover all costs from the applicant customers and not from subsequent customers or it would be inefficient to construct the line suited only to the specific applicant and not based on future planning. Further in such case, any new consumer would have to wait for the line to constructed to match its capacity and there would be delays in providing the connectivity to new customers. This is the reason for planning the transmission system based on future needs but pro-rating the charges towards the existing and new customers. The logic as is applicable to the transformers etc for pro-rating is equally applicable for lines.

4.2. The proportionate charges as per Letter dated 23.11.2017 is for the strengthening of the line and Rs.4298.21 per KVA has been computed accordingly. Therefore, there is no contradiction between Commercial Circular 1 and Administrative Approval dated 23.11.2017.

4.3. Thus, Respondent GETCO issued the estimate to the Petitioner with recovery of Pro-rata charges as per the above and Proportionate Charges for line strengthening required to grant connection to all new and additional load consumers that were being fed from following substation as the existing substations were running on critical loading and no further load could be released without strengthening connectivity.

1. 66KV Valthera,

2. Dholka GIDC and

3. Pisawada S/s

4.4. Since, it was clear in the Commercial Circular 1 of the Respondent that any strengthening required in the lines will be recovered separately from the consumers being benefited from line, no separate approval was required from the Board.

4.5. It is decided to disconnect existing 66kv Salejada- Bhat line near 220kv Salejada S/s & to connect 220kv Salejada side line circuit to 66kv Pisawada S/s and 220kv Bhat side line circuit to 66kv Dholka GIDC S/s as under,

Strengthening work	Details of work	Amt. under Option – 1	Name of affected S/s
66kv S/c Panther/630 sqmm line from 220kv Salejada S/s to 66kv Piswada S/s S/s	Part 1 (1 FB at 66kv Piswada S/s)	29,29,243.49	(1). 66kv Valthera S/s, (2). 66kv Dholka GIDC S/s, (3). 66kv Piswada S/s
	PART 3A (66kv Salejada – Piswada U/G Cable line portion up to 66kv Dholka GIDC S/s) (630Sqmm S/C, (3+1) – 9.20Km)	20,18,95,581.00	
	PART 3 B (66kv Hot line stringing from existing D/C tower near 66kv Dholka GIDC S/s to 66kv Piswada S/s with S/C Panther line – 8.5 Km)	61,37,105.54	
66kv S/c 630 sqmm line from 220kv Bhat S/s to	PART 1 (1 FB at 66kv Dholka GIDC S/s)	29,38,421.61	
	Part 3 C (66kv Bhat – Dholka GIDC U/G Cable line) (630Sqmm S/C, (3+1) – 7.50 Km)	16,45,88,790.00	

66kv Dholka GIDC S/s			
	ROW Cost [16.7 km U/G (9.2+7.5) x 5 Lacs]	83,50,000.00	
	TOTAL Rs. In Lacs	3868.39	
	Capacity of 1 circuit for 66kv Panther line is 45000 KVA and for 2 circuits 90000 KVA (1 source from 220kv Salejada S/s & 1 source from 220kv Bhat S/s)	90000 KVA	
	Rate per KVA in Rs.	4298.21	

The cost for above system requirement under option-1 is prepared with amount Rs.3868.39 Lacs for system strengthening work which will be recovered from the following S/s (1) 66kv Valthera S/s (2) 66kv Dholka GIDC S/s, (3) 66kv Pisawada S/s and the same will be recovered considering 90MVA total power, 1 source of 45 MVA from 220kv Salejada S/s & 1 source of 45 MVA from 220kv Bhat S/s, that can be catered on completion of line. Rs. 3868.39 Lacs/90 MVA i.e. Rs.4298.21/KVA will be taken as proportionate line charges from HT/EHT consumers who will draw power from the above 3 nos. of S/s till total power demand of 90MVA is met with. The strengthening is proposed as per GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005.

- 4.6. The Petitioner had approached to Consumer Grievances Redressal Forum (UGVCL), who has given the final order on 10-9-2018. In the final verdict issued vide Order dated 10.09.2018 of Consumer Grievances Redressal Forum, it is mentioned that the "Post facto approval is to be obtained from GERC for recovery of proportionate charges for new and additional load of HT and EHT for strengthening of 66 Kv network for the lines emanating from 220 Kv Salajada substation, 66 Kv Valthera and 66 Kv Dholka GIDC and 66 Kv Pisawada. Decision of GERC will be final."

Though, the Consumer Grievances Redressal Forum has taken a view that the post facto approval of the Commission is to be obtained, there is no such provision in the Regulations for any requirement of approval by the Commission. At no point in the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005, it is written that any proportionate charges to be recovered for strengthening the lines will be subject to approval of the Commission. In fact, in this context the Clause 5(i) of the (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 is relevant and is reiterated hereinbelow:

Quote

“5. PROVISION FOR HIGH TENSION / EXTRA HIGH-TENSION SUPPLY

- (i) *In case of applications where there is a need to erect a new HT line or EHT line from the sub-station or extend the existing HT or EHT line **or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in co-ordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost of terminal and metering arrangements at the premises of the consumer, but not including the cost of meter.** Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.*

Unquote

Therefore, when there is a regulation already on record and the Commission has not mentioned of taking any separate approval and in fact the Regulations contemplate the payment for strengthening of the line, there cannot be any need for seeking approval. Respondent GETCO proceeded with the above calculation and had issued the estimate strictly in line with Regulations only.

- 4.7. The Petitioner on the one hand has stated that the Consumer Grievances Redressal Forum has no authority to interpret the Regulations or Notifications of the Commission and further that the line charges by GETCO are not covered under the jurisdiction of Consumer Grievances Redressal Forum but is also seeking to rely on the finding of the Consumer Grievances Redressal Forum. There cannot be any direction from Consumer Grievances Redressal Forum to GETCO or a finding that GETCO's estimates are incorrect.
- 4.8. The contentions about the alleged impact on industrial growth etc is denied. There is no discriminatory approach. It is submitted that the methodology for collection of charges for line strengthening is uniform and is not only for certain areas. The concept of proportionate charges for line strengthening work is applied for the entire Gujarat; however the specific charges are based on the cost of the specific line. That is say whenever line strengthening is done, similar computation for pro-rata charges is done and same is recovered from all beneficiaries, existing and new. The estimates for each applicant is prepared on the basis of the specific line costs but the principle of preparation of estimate is uniform for the entire state.
- 4.9. In fact if the contention of the Petitioner is accepted, there would be discrimination against the initial applicants as against subsequent applicants. Further if the line strengthening is not done at the outset and only on application of each subsequent applicant, this would delay the grant of connectivity for the subsequent applicant and further incur higher cost than if the strengthening is done for higher capacity at one go. The per KVA marginal cost for each small increase in capacity (line strengthening) would

be substantially higher than considering the per KVA of the cost for the increase in total capacity at one go.

- 4.10. The Petitioner is being charged proportionate charges for the line which is used for giving supply to the Petitioner. There is no requirement that the costs are to be charged only if line has been erected or strengthened after receiving the application of the Petitioner. If this is followed, then this would lead to inefficient transmission planning. GETCO would not undertake the strengthening work until the application is received and thereafter would undertake the work only to the extent of the application capacity which would mean that timeline for connectivity would be much more and further the marginal cost for such strengthening would be higher. It is more economical and efficient for GETCO to undertake higher capacity strengthening work and thereafter each subsequent applicant would pay the proportionate charges for such line.

5. Reply of the Petitioners – submitted vide affidavit dated 02.01.2021:

- 5.1. Respondent GETCO had mentioned that technical feasibility report was issued by the Executive Engineer (TR) GETCO Narol on date 6.2.2018 and the connection was released on 10.4.2018. It is not clear that the connection is released after completion of strengthening of transmission lines or before completion. It is important to know that whether the load extension can be released without strengthening or not. The commission is requested to direct Respondent GETCO to submit a copy of the said feasibility report.
- 5.2. Respondent GETCO had mentioned that the pro-rata charges do not cover the cost of line. The Petitioners agree with that fact.

It is said that,

'The cost for the erection or extension or strengthening of the line is to be prepared separately and is recovered from the beneficiary.'

This is twisting of fact and wrong interpretation of GETCO

Commercial Circular 1.

The relevant part of the GETCO Commercial Circular 1 is reproduced below:

The pro-rata charge do not include the cost of lines. In case of application where there is a need to erect a new EHT line from the substation along with bay equipment or extend existing EHT line or strengthen existing EHT line for the applicant/beneficiary, an estimate shall be prepared for the applicant/beneficiary and its entire cost must be recovered from

that applicant/ beneficiary though the capacity of the line may be more than the consumers requirement.

In the cited para, it is clearly said that the extension or alteration of line cost estimate should be prepared **only** when there is a need for the same to cater power to that particular applicant/ beneficiary. In the Petitioners' case the required demand can be catered from the existing EHT network and technical feasibility granted accordingly.

In last lines of the above cited para of the said circular, it is clearly said that **the entire cost of such erection / alternation should be recovered from that applicant/ beneficiary only.**

The alternation scheme of EHT is approved on date 23.11.2017 well before when the Petitioners applied for load extension. In other word, the approval as per office Note dated 23.11.2017 is not granted in response to the applications of the Petitioners.

As per the said Circular No. 1, the entire cost must be recovered from that applicant / beneficiary for whom the line is to be erected even if the capacity of the line is more than the consumer's requirement. In the office note dated 27.10.2017 three beneficiaries are mentioned namely, 1) Inox Air Products, 2) Cadila Pharma and 3) Concord Biotech. The work required to cater the demand from above applicants was clearly mentioned in the above-mentioned office note. Therefore, line cost was to be recovered from said applicants as per circular 1.

It is clearly stated in the office note that:

The ring network from 220 KV Salejada S/S to 66 KV Dholka GIDC S/S, 66 KV Piswada S/S, 66 KV Ingoli Road S/S, 66 KV Simej S/S, 66 KV Raipur S/S, 66 KV Koth S/S, 66 KV Valdhera S/S to 220 KV Salejada S/S is proposed by SE (TR) Nadiad and following work is proposed.

Above note indicates that the line strengthening was not for catering power to any applicant / beneficiary but for system improvement only and no regulation allowed such cost is to be collected from the applicant.

There is no provision to collect the cost from the subsequent applicants.

- 5.3. In the reply, a logic is floated by the Respondent GETCO regarding sharing of cost for development of new transmission line or augmentation of existing network. No clause of the Electricity Act 2003 or the Regulations of the Commission allow such development charges from the applicant. It is a prime duty of the Distribution licensee to provide economical electric energy distribution network to the consumer.

- 5.4. In the said office note, it is clearly stated that the lines are erected / augmented for planning of transmission line for future needs, however, no data supporting proposal like, present capacity of the substation, future projection of load and its reason, present current carrying capacity of the line, Maximum and average current at present, Required Current carrying capacity, are mentioned in the office note. It is not mentioned that why such load was expected from particular area surrounding Dholka. It is stated by the Respondent that prorata logic for transformer switchgear etc. is applicable to transmission line also. Factually, reverse is the case. The commercial circular clearly states that the line charges should be collected only from the applicant for which the line is required to be erected, even if the new / augmented line is having more capacity required than the requirement of the applicant/beneficiary. The Respondent failed to mention the GERC Regulations which allow prorata line charges to be paid by the subsequent applicant for EHT line erected for future planning.
- 5.5. In the reply, it is stated that pro-rata charges of Rs. 4298.21 is calculated as per calculation provided in the reply. As per calculation the line strengthening will make the load carrying capacity to 90000 kVA which will cater power to 3 substations mentioned in the proposal namely, 1) 66 KV valthera, 2) 66 KV GIDC Dholka and 3) 66 KV Piswada. The projected load on these substations is shown as 90000 kVA. The logic/intention behind such requirements is not shared by the Respondent GETCO in its reply.
- 5.6. From the reply of the Respondent GETCO, it is absolutely clear that the work is required for system improvement and strengthening and not for catering power to the applicants. GETCO is taking numbers of such projects and in most of the cases the cost is not recovered from the applicant and expense is booked under various schemes funded by different Government scheme and departments.
- 5.7. In the reply the Respondent GETCO stated that the strengthening is proposed as per GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005. The related lines of the regulations reproduced below for ready reference.

In case of applications where there is a need to erect a new HT line or EHT line from the substation or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in co-ordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost.....

In the said clause, it is never said that applicant should pay line strengthening for system improvement work. Also, there is no provision for prorated charges for line work in the regulations.

5.8. As mentioned in the reply of the Respondent GETCO, the Consumer Grievances Redressal Forum had ordered that the post facto approval is required from the Commission.

5.9. The reason for such order may be consideration of fact that:

- a) There is no provision of pro-rata collection of line charges in the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005.
- b) Erection, extension or strengthening of HT/EHT line estimate should be provided only if such line is required for extending supply to applicant.
- c) Line strengthening work for system improvement is not covered under the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005.

In the present case, it is never said that without such strengthening load extension is technically not feasible.

5.10. In the reply, the Respondent had said that no separate permission is required from the Commission for issuing prorated estimate to the subsequent application. The Respondent is trying to divert attention of the Commission from the fact that:

- 1) There is no prorated charges allowed in the,
- 2) As per GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005, the estimate should be issued to the applicant only if change in line required specifically for catering demand of the applicant.
- 3) There is no provision for collection of line charges from subsequent applicants.
- 4) There is no mention of collection of charges from consumer for system improvement work in the said regulations.

The Respondent had increased the capacity of the system to 90000 kVA without providing any sustainable reason for the same.

5.11. The Petitioners do not agree with the opinion of the Respondent GETCO that such charges will not impact industrial growth of the area. It is said that the proportionate charges are collected from all areas of Gujarat state and from all beneficiaries existing or new. It is requested to direct the Respondent GETCO, to furnish the list of lines which were erected or strengthened for system improvement in Gujarat state in last 4 years and how much proportionate charges imposed on consumers and list of such substations of the state where such charges are presently collected. In most of the cases, the line strengthening is carried out by Respondent GETCO under various schemes and do not impose the prorata charges on the existing and new consumers.

5.12. In the reply, Respondent GETCO has claimed that the prorata charges are collected in line with the GERC (Licensee's Power to recover Expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005. In the petitions, Clause 3 (iii) of the said Regulations has been mentioned reads as under;

*Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every **Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity, any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant.***

(Emphasis added.)

It is requested to take note of the above regulation where it is categorically said that estimate should be reasonable and electric line should be erected specifically for the purpose of giving supply to the applicant. In the present cases, the line is already sanctioned by the Respondent GETCO for system improvement and yet the Respondents are asking for line charges from the Petitioners under disguise of said Regulations.

5.13. In its reply, the Respondent No. 1 GETCO has not commented anything on available evacuation capacity for RE integration from all the substations mentioned in the said GETCO office note. The Petitioners submitted a list published by the Respondent GETCO providing details of substations in Gujarat where such evacuation capacity is available.

The capacity available on the connecting substations which are going to be catered power from lines which are proposed to be strengthened, led to the conclusion that the line strengthening work carried only for RE integration and the innocent applicants of the Dholka area are compelled to pay for the work which is beneficial to other entity.

It is also obvious that Renewable energy generators are not covered under Distribution licensee and they are not supposed to pay any cost for such strengthening of transmission network.

6. Additional Reply of Respondent GETCO– submitted vide affidavit dated 21.04.2023:

6.1. It is submitted that GETCO is a transmission licensee and the costs incurred by GETCO in regard to work carried out by it as a transmission licensee are to be recovered in full. Therefore if there is any change in the recovery of costs from any one consumer, the recovery has to be ensured through other methodology. Therefore any exemption granted to the Petitioner would lead to higher recovery from other consumers.

6.2. GETCO follows the concept of proportionate charges for line strengthening work for all consumers for the entire Gujarat. That is say whenever transmission work is done, similar computation for pro-rata charges is done and same is recovered from all beneficiaries, existing and new. The estimates for each applicant is prepared on the basis of the specific line costs but the principle of preparation of estimate is uniform for the entire state.

6.3. This is necessary as otherwise it would be inequitable to recover all costs from the applicant customers and not from subsequent customers or it would be inefficient to construct the line suited only to the specific applicant and not based on future planning.

6.4. The Petitioners have sought to raise an issue related to renewable generation which is completely irrelevant and is an attempt to misdirect the issue. The generators (renewable or otherwise) are not relevant to the liability of the applicants to bear the proportionate charges for the transmission work. It is submitted that the consumers are drawing the power from the grid, whereas in case of generator, generators are injecting power into the grid. If the substation available in the Renewable Energy (RE) feasible list, it means that, there is a load connected at this substation or in cluster and it is feasible to accommodate/integrate the RE power at this location since the load is connected. Thus, adding RE injection at particular substation do not restrict the releasing the load from this substation. The capacity utilised for evacuation of renewable generation is not charged from the consumers.

6.5. The liability for the consumers/applicants to bear the charges is provided under the law:

Section 46. (Power to recover expenditure): The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

The Commission framed the GERC (Licensee's Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005 inter alia under Section 45 and 46 of the Electricity Act, 2003 which provides for recovery of expenses to provide any electric line or electrical plant for purpose of giving supply to a consumer. The said Regulations inter alia provides as under:

3. DUTY OF THE DISTRIBUTION LICENSEE TO SUPPLY ELECTRICITY ON REQUEST AND RECOVERY OF EXPENDITURE

.....

(iii) Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity, any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant."

The Applicant is defined under Regulation 2(ii) of the GERC (Licensee's Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005;

(ii) "applicant" means the owner or occupier of any premises who makes an application to the distribution licensee for supply of electricity.

Thus, the charges recovered from the Petitioners is under the said Regulations. The above provisions of Electricity Act, 2003 and the Regulations are with reference to recovery from consumers who seek supply of electricity. The renewable energy generators are generators of electricity i.e. who sell/supply electricity themselves and are not consumers seeking supply of electricity. Therefore the said Section 46 or GERC(Licensee's Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005 do not apply to the renewable generators. The Petitioner is deliberately misdirecting the entire issue to avoid its liability under Section 46 and the Regulations.

- 6.6. It is submitted that generators (renewable or otherwise) have no impact on the charges being recovered from the consumers. The consumers are charged on pro rata basis i.e. on per KVA basis and the very purpose of this is that the consumers only pay for the proportionate costs relevant to their demand. The system strengthening work considered for this purpose is the work done for the purpose of provision of supply to the consumers.

6.7. The Commercial Circular dated 30.11.2006 inter alia provides as under:

"Accordingly, the cost of transmission sub-station equipment's is estimated as per annexure enclosed and the pro-rata charges are worked out on the basis of latest cost data/last purchase price as below:

Amount payable by the applicant = $K \times (P/Q)$

Where, P = Cost of sub-station transformer including switchgears such as isolator, L.A., breaker, structure, bus-bar, earthing etc.

Q = Rated capacity of sub-station transformer.

K = Contract load in KVA.

.....

*The pro-rata charges **do not include the cost of lines.** In case of application where there is a need to erect a new EHT line from the sub-station along with bay equipment or extend existing EHT line or strengthen existing EHT line for the applicant/beneficiary, an estimate shall be prepared for the applicant/beneficiary and its entire cost must be recovered from that applicant/beneficiary though the capacity of the line may be more than the consumer requirement."*

(Emphasis Supplied)

An illustration is provided to demonstrate that there is no collection of charges from the consumers relating to any other capacity.

- a) Based on the demand of the applicant, the work is carried out whereby a capacity of 50 MW is updated. Such work can accommodate 50 MVA of contract load. The cost for such work is a Rs. 1 lakh. The per MVA cost is 100,000/50 Rs 2000 per MVA and per KVA would be Rs 2 per KVA,
- b) A consumer has sought 10 MVA. He would be charged Rs. 20,000 (10 X Rs. 2000). The charges per MVA/KVA would not change irrespective of the actual load sought and accommodated at any given point of time.

6.8. Even otherwise, irrespective of whether there are renewable generators connected to the sub-station or not, the per MVA/KVA rate remains the same and therefore the consumers would pay the same charges. Even assuming but not admitting that any of the renewable generators use any part of the capacity of 50 MW, the consumers would only pay for the capacity as per their demand and would not be liable for any part of such capacity used for renewable generators.

6.9. It is specifically denied that the capacity added for purpose of renewable energy evacuation is collected from consumers. Such contention is erroneous, misconceived and wrong. As already submitted, as per the Commercial Circular dated 30.11.2006, *"the charges towards lines, transformer centers and service connection shall be recovered*

strictly as per provisions prescribed by GERC at Sr.no. 4 & 5 under Notification No.9 of 2005."

The Petitioner is being charged proportionate charges for the line which is used for giving supply to the Petitioner.

6.10. The system improvement scheme is carried out on regular basis based on the needs of the system. There is no bias or prejudice or discrimination against or in favour of any one area. In GETCO network, large number of substations and lines are quite old, some of its equipment's viz. CT's, PT's, Breakers, Transformers, LA's are very old and have completed their service life. Also Original Equipment Manufacturers (OEM) have discontinued the supply of spares due to obsolete design and outdated technology. Hence such equipments are required to be replaced. Similarly corrosion takes place on conductor, Insulator, Hardware, earth wire etc. on transmission lines passing through coastal area, creek area & chemical zone. It is required to replace line materials and strengthen the lines. Similarly, it is required to strengthen the footing of line structure at various place where footings got deteriorated. Such enhancement in the life of substation equipment's and transmission line materials is necessary to feed continuous and uninterrupted power supply to distribution companies and the consumers.

7. Rejoinder by the Petitioner to Additional Reply of Respondent GETCO - submitted vide affidavit dated 16.05.2023:

7.1. In their reply, it is stated that Respondent GETCO is a transmission licensee and the cost that occurred for work carried out by GETCO is to be fully recovered. It is further stated that if there is any change in the recovery of cost from any one consumer, the recovery has to be ensured by another methodology. The said contention is erroneous and against the settled principle of law. It is submitted that Respondent GETCO has not mentioned the methodology of the cost collection and if such cost is to be collected by Respondent GETCO, then it must be in line with the Regulations of the Commission only, and Respondent GETCO is not allowed to collect the charges as per its own wish and methodology disobeying the regulations. It is submitted that some of the main methods for the collection of charges for a transmission Licensee are Transmission Charges, pro-rata charges for the erection of substations, and line charges from new EHT applicants or applicants seeking load extension.

7.2. It is replied that Respondent GETCO follows the concept of proportionate charges for line strengthening work from all consumers of Gujarat. The said contention is incorrect, misleading, and without any basis. It is respectfully submitted that the GERC Regulations and GETCO's own circular clearly mentioned that such charges are to be collected from the applicant/group of applicants for whom the line is required to be strengthened.

Moreover, it is also stated by Respondent GETCO collects such proportionate charges from all connections but the category of connections viz. EHT/HT/LT etc. is not mentioned.

- 7.3. The other misleading contention raised by Respondent GETCO is that the practice of collecting proportionate costs for line strengthening work is followed all over Gujarat while as per System Improvement Scheme (R&M) FY 2012-13, the line strengthening work completed at many places under the scheme at the cost of GETCO. Such statements are far from the truth and Respondent GETCO may be directed to produce supportive data such as a list of all the line- strengthening work carried out by GETCO from 2012 till date, a copy of the technical sanction, and collection of the cost from the consumers in support of its contention.
- 7.4. A methodology for the collection of cost from the applicants is suggested by Respondent GETCO. The methodology is not part of GERC Regulations related to the recovery of cost but a self- generated idea from the Respondent. The proportionate cost methodology is put into action only in some specific cases, arbitrarily decided by the Respondent GETCO.
- 7.5. GETCO has never disclosed the reason for line strengthening in the Dholka area. If the transmission lines catering power supply to 66 KV Substations of the Dholka area are overloaded, the connections or load extensions to HT connections of the Dholka area including the request of load extension from the Petitioners will be entertained only after completion of line strengthening work. The new connection/load extension including the load extension of the Petitioners and other consumers are released without completion of the line strengthening work, which indicates that the line strengthening is not carried out for releasing the load extension of the Petitioners and other connections of the Dholka area. As the line strengthening is not suggested for releasing new connections or load extensions in the Dholka area, the circumstantial proof leads to doubt that the line integration might be carried out for the integration of RE generators.
- 7.6. At this juncture, the technical question arises that whether this evacuation capacity mentioned in the RE integration circular would be available if the line strengthening work is not carried out by respondent GETCO and at the same time, whether the load extension or new connection in the Dholka area can be granted if the no line strengthening work would be carried out. To the best knowledge of the Petitioners, the new connections/ load extensions application after granting administrative approval dated 23.11.2017; of the Dholka area were released without waiting for the strengthening work or completion of approved line strengthening work. The said aspect can be verified if Respondent GETCO can be directed by the Commission to submit a copy of the work orders issued for the work under administrative approval dated 23.11.2017 and the work completion certificate for the same. In the reply, the Respondent itself has stated that the capacity

utilized for the evacuation of renewable generation is not to be charged to the consumers but in the case of the Dholka area, the said principle is not followed, and it seems that the cost of such an evacuation facility is recovered from the consumers of the Dholka area.

- 7.7. Respondent GETCO has cited Regulation 3 of GERC Regulation (Licensee's power to recover expenditure incurred in providing Supply and other miscellaneous charges) Regulation 2005. The aforesaid Regulation 3 is applicable only to the 'distribution licensee' and not applicable to the 'transmission licensee' unless specifically allowed by the Commission. According to the said Regulation, only Distribution Licensee is allowed to recover expenditure incurred to provide any electric line or electric plant specifically for the purpose of giving such supply to the applicant, whereby, in the present case, Respondent GETCO, who is the Transmission Licensee, has collected the charges for line strengthening, which is even otherwise neither incurred for release of load extension of the petitioner, nor the Respondent GETCO is empowered to recover the charges from the Petitioners and other consumers. The Petitioners are applicant/consumer of Distribution Licensee UGVCL and should not be considered applicants to the transmission licensee.
- 7.8. It is submitted that the system improvement scheme and maintenance are different things. The SI schemes are provided to divert/bifurcate the load on an existing line, making way for an increase in the loading capacity of the line or nearby area. While the maintenance is carried out for sustainable power without increasing the capacity of the line.
- 7.9. The Petitioners have further raised the points as under;
- Whether Respondent GETCO is authorized to collect the proportionate charge for line strengthening which is not required for releasing the load extension of the applicant from the applicant or not.
 - Whether the collection of proportionate line charges for line strengthening from the new connection/load extension is authorized by the Commission or not?
 - All the conditions of the GERC (Licensee's power to recover expenditure incurred in providing Supply and other miscellaneous charges) Regulation 2005 are directly applicable to Transmission Licensee also or not.
 - The claim of Respondent that the line strengthening charges are always collected from all consumers of Gujarat or that some areas are given special benefits under some schemes.
 - Is an officer of GETCO authorized to give administrative approval for such line strengthening without declaring a specific reason for the necessity of such work?

8. Based on the arguments of the parties during the hearing, vide daily order dated 21.07.2023, specific queries, as given below, were posed to the Respondents and they were directed to provide the further clarification within specified time limit.

- i. Whether any system study based on which system improvement scheme was approved in the year 2017 for Dholka GIDC sub-station is carried out? If yes, data proving critical loading of the said sub-station for the year 2017 and also clarify how at the said period of time the sub-station in question was under critical loading although, load is under 50% of the capacity at present;
- ii. Regulatory basis for determination of pro-rata charges methodology;
- iii. Basis for determination of pro-rata charges along with calculation;
- iv. Regulatory basis for recovery of pro-rata charges from applicants/ consumers, requiring supply from the said system, for system strengthening work;

9. Additional Reply of Respondent GETCO - submitted vide affidavit dated 26.10.2023:

- 9.1. Based on the progressive demand growth and the applications for contract demand under HT/EHT connectivity, GETCO conducts study of the network in the local area/region and explores the requirements of strengthening of substation and lines in the said area/region. When the Petitioner had applied for additional load in January 2018, GETCO had considered the loading of the sub-station and the connected lines in order to determine the strengthening requirements.
- 9.2. The consideration of system improvement for Dholka Sub-station was approved in 2016-17 based on the loading data for FY 2015- 16. The applicants have been charged pro rata charges (computed as per the prevailing charges for sub-station based on Circulars issued from time to time as mentioned hereinafter) for the said sub-station strengthening and the Petitioner was also charged on similar basis. There is no new strengthening considered for the sub-station itself in FY 2017-18.
- 9.3. In 2015-16, the maximum load recorded was 20.32 MVA (November 2015). Considered the installed capacity of 30 MVA (10 MVA X 3) and considering N-1 contingency, the load would be 101.6%. In view of the above, GETCO had approved augmentation at the Dholka GIDC Sub-station through addition of one 10 MVA transformer thereby increasing the s/s capacity to 40 MVA (Augmentation of 66 KV S/s capacity for the year 2016-17).
- 9.4. The critical loading at old capacity cannot be compared to the loading at augmented capacity. The critical loading in 2015-16 led to augmentation of the capacity being

approved in FY 2016-17 and therefore there is now additional capacity available to accommodate new applicants such as Petitioner as well as subsequent applicants. It is neither reasonable nor prudent that GETCO develops the capacity only for the specific application and in particular in case of augmentation of the sub-station, addition of transformers has to be based on future capacity demand to meet the future applicants.

- 9.5. In addition to the sub-station, the critical loading of the lines emanating from the sub-station is also required. Though substation capacity was available, but the upstream network i.e. associated line with 66kv Dholka GIDC substation had loading reached up to thermal limit. Therefore, due to limitation of associated transmission elements, such loading has been considered for TFR. As per the loading details of the upstream/downstream network i.e. associated line with 66 kV Dholka GIDC substation during the Year 2017-18, line had reached beyond the thermal loading of line and therefore the strengthening was required. In view of the above, the strengthening scheme as referred to in Circular dated 23.11.2017 was approved. Similar to sub-station, in regard to the upstream network augmentation also, the applicants have been charged pro rata charges for the said sub- station strengthening and the Petitioner was also charged on similar basis.
- 9.6. The system strengthening cost is recovered by GETCO on per KVA basis and the applicants are charged on the basis of the capacity applied for. Until full capacity is applied for, GETCO would not recover its entire expenditure on the strengthening work. Therefore if the current load is less than full capacity, it only means that GETCO has recovered costs for actual connected KVA capacity. Such assets are not included in the Net Fixed Assets and therefore GETCO is also not recovering any return on equity or depreciation on this expenditure. Therefore there is no incentive for GETCO to carry out system strengthening work if no such work is required.
- 9.7. GETCO carries out the work based on future planning. It would be inefficient to construct/augment the system suited only to the specific requirement at present and not based on future planning. Further in such case, any new consumer would have to wait for the system to be constructed/augmented to match its capacity and there would be delays in providing the connectivity to new customers. Further the marginal cost for such strengthening would be higher. The per KVA marginal cost for each small increase in capacity (line strengthening) would be substantially higher than considering the per KVA of the cost for the increase in total capacity at one go. It is more economical and efficient for GETCO to undertake higher capacity strengthening work and thereafter each subsequent applicant would pay the proportionate charges for such line.

- 9.8. The liability for the consumers/applicants to bear the charges is provided under the law:

Section 46. (Power to recover expenditure): The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

- 9.9. The Commission framed the Gujarat Electricity Regulatory Commission (Licensee's Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005 inter alia under Section 45 and 46 of the Electricity Act, 2003 which provides for recovery of expenses to provide any electric line or electrical plant for purpose of giving supply to a consumer. The said Regulations inter alia provides as under:

3. DUTY OF THE DISTRIBUTION LICENSEE TO SUPPLY ELECTRICITY ON REQUEST AND RECOVERY OF EXPENDITURE

.....

(iii) Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity, any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant."

- 9.10. The Applicant is being charged proportionate charges for the network which is used for giving supply to the Applicant. It is more economical and efficient for GETCO to undertake higher capacity strengthening work and thereafter each subsequent applicant would pay the proportionate charges for such line.
- 9.11. In case of EHT Lines, the preparation of estimate requires transmission licensee as the transmission licensee lays down such network. Further, the estimate is prepared based on standard cost data. In this regard, Regulation 5 provides as under:

5. PROVISION FOR HIGH TENSION / EXTRA HIGH TENSION SUPPLY

(i) In case of applications where there is a need to erect a new HT line or EHT line from the sub-station or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in coordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost of terminal

and metering arrangements at the premises of the consumer, but not including the cost of meter. Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.

(ii) In case of applications where there is a need to erect a new sub- station for extending supply to the applicant, the Distribution Licensee, on its own or in co-ordination with Transmission Licensee, shall prepare an estimate of the cost of the necessary works in the same way as indicated in subclause 4.2 (i) above. In cases of applications when the capacity of existing substation is required to be augmented, the differential cost of existing and new such electrical plant will form the basis of calculation of pro-rata charges. The estimate of the cost of such substation shall be based on the latest cost data as published by the Distribution Licensee and/or the Transmission Licensee.

The above Regulation provides for preparation of estimate based on subclause 4.2(i) which deals with LT Supply and provides for pro-rating the costs (as amended vide Notification No. 2 of 2010):

"For extending supply to the applicants for Low Tension connection, the licensee shall estimate the cost of electrical plant such as distribution transformer (DTR) along with switch gear etc, as follows:

Cost of the works of erection of DTR including switchgear (in Rupees) = P

Rated capacity of DTR in KVA = Q

Cost per KVA (in Rupees) = P/Q

Contracted load in KVA of the applicant = K

Amount payable by applicant towards electrical plant (in Rupees) = K X (P/Q)

On requirement of the augmentation of the capacity of an existing electrical plant (such as DTR and switchgear etc.), the differential cost of existing and new electrical plant will form the basis of calculation of pro-rata charges.

Distribution licensee shall continue to estimate the amounts payable by subsequent applicants as above till the full cost of transformer is recovered.

In all cases the estimate of the cost of electrical plant shall be based on the latest cost data as published by the Distribution licensee.

.....

The Distribution Licensee shall recover the cost, as mentioned in the sub-clause 4.2(i) and 4.2 (ii), from all the applicants excluding following categories:

- a. Agricultural consumers with the exception of Agricultural connection to be given under special schemes like "Tatkal Scheme" which may be brought out in future.*
- b. Water Works and Sewerage Pumps operated by/for any local authority other than Municipal Corporation.*
- c. Domestic consumers*
- d. Commercial consumers up to 100 KVA/125 HP of contract demand"*

The basis of the above is that the equipments etc. would have capacity higher than the capacity sought by the specific applicant. Therefore the cost is proportionated as per capacity and the cost is recovered from each applicant until the full cost is recovered. Thus the regulatory basis for pro- rata charges and recovery from consumers for the system strengthening work related to the provision of supply to such consumer is as per the above which has been incorporated in the Commercial Circular by GETCO.

- 9.12. This is also consistent with the fundamental objective of the Electricity Act, 2003. In terms of Section 39 and 40, the State Transmission Utility and the transmission licensees have to develop/build, maintain and operate an efficient, co-ordinated and economical system of intra-state transmission. Similarly, in terms of Section 42, it is the duty of the distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system. The relevant sections are as under:

"Section 39. (State Transmission Utility and functions):

....

(2) The functions of the State Transmission Utility shall be –

....

(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres;

.....

Section 40. (Duties of transmission licensees):

It shall be the duty of a transmission licensee –

(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;

....

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."

This necessarily requires that any system strengthening work is undertaken in a coordinate, efficient and economical work and therefore when the work is to be carried out, GETCO carries out the work not only based on existing demand but also based on future planning.

- 9.13. The Commercial Circular dated 30.11.2006 was issued by GETCO is consistent with the Regulations and inter alia provides as under:

"The charges towards lines, transformer centres and service connection shall be recovered strictly as per provisions prescribed by GERC at Sr.no. 4 & 5 under Notification No.9 of 2005 and such cost shall be derived as per latest standard cost data in force from time to time. Such charges shall be recovered from all new as well as existing consumers/ beneficiaries demanding additional load on their contract demand excluding following categories:

- a) **Agricultural consumers** with the exception of Agricultural connection to be given under special schemes like "Tatkal Scheme" which may be brought out in future.*
- b) **Water works and Sewerage Pumps** operated by/for any local authority other than Municipal Corporation.*
- c) **Domestic consumers.***
- d) **Commercial consumers up to 100 KVA/125 HP** of contract demand.*

Accordingly, the cost of transmission sub-station equipment's is estimated as per annexure enclosed and the pro-rata charges are worked out on the basis of latest cost data/last purchase price as below:

Amount payable by the applicant = $K \times (P/Q)$

Where, P = Cost of sub-station transformer including switchgears such as isolator, L.A., breaker, structure, bus-bar, earthing etc.

Q = Rated capacity of sub-station transformer.

K = Contract load in KVA.

The average cost incurred for providing the facility connected to a sub- station on per KVA basis as per above formula is to be recovered from the beneficiaries.

Considering the cost incurred towards augmentation of existing sub- stations and installation for switchgears, the amount payable by the applicant/beneficiary depending on the voltage class is as follows:

Sr. No.	Voltage class at which the beneficiary is embedded to GETCO	Per KVA / HP charges to be recovered in Rs.
1.	11/22 KV	1770/-
2.	66 KV	1115/-
3.	132 KV	1090/-
4.	220 KV	1070/-

The pro-rata charges shall be updated periodically from time to time and circulated accordingly for necessary recovery.

*The pro-rata charges **do not include the cost of lines**. In case of application where there is a need to erect a new EHT line from the sub-station along with bay equipment or extend existing EHT line or strengthen existing EHT line for the applicant/beneficiary, an estimate shall be prepared for the applicant/beneficiary and its entire cost must be recovered from that applicant/beneficiary though the capacity of the line may be more than the consumer requirement."*

The costs in this circular for substation are also revised from time to time and subsequent circulars have been issued for the pro-rata sub-station costs.

- 9.14. It is stated that the table in the above Circular is purely for the substation costs and does not include the costs of the lines including the upstream lines. It is also not possible to provide one single figure for such augmentation of the upstream network and therefore the costs have not been provided in the circular. The charges are to be recovered from existing as well as new consumers as stated in the opening part of the Commercial Circular No. 1. It is stated that the estimates for each applicant is prepared on the basis of the specific line costs but the principle of preparation of estimate is uniform for the entire state and is based on standard cost data.
- 9.15. The reference to the last part of the circular is for the line from the substation i.e. last mile connectivity for which the entire cost is recovered from the consumer even if the capacity is higher than the requirement of the consumer. However the cost of the upstream network augmentation, if required, is pro rata charged to the subsequent consumers also. Thus the Petitioner is being charged proportionate charges for the line which is used for giving supply to the Petitioner.
- 9.16. It would not be rationale that the cost of sub-station is proportionated but other augmentation such as the upstream network augmentation is not proportioned. on the other hand, if the contention of the Petitioner is accepted, then the Applicant

would be liable to pay for the entire costs of the line/upstream network, no matter the capacity.

9.17. In addition to its being not rationale that the cost of augmentation of upstream network is not proportionated, it would also burden other consumers/applicants. There are two options in such a case:

- a) All the costs of upstream network are recovered from the first applicant and not from subsequent applicants similar to last mile connectivity. This would be inequitable. Or it would be inefficient and impractical to construct the line suited only to the specific applicant and not based on future planning. Further in such case, any new consumer would have to wait for the line to constructed to match its capacity and there would be delays in providing the connectivity to new customers. Further the costs of such augmentation would be much higher than if the augmentation is done at one time considering current and future needs. This is the reason for planning the transmission system based on future needs but pro-rating the charges towards the existing and new customers. The logic as is applicable to the transformers etc for pro-rating is equally applicable for upstream lines.
- b) The costs are not recovered from specific consumers and are included in the Aggregate Revenue Requirements of the licensee. In this regard, it is pertinent to note that the costs recovered from the applicants such as the Petitioner shall be deducted from Gross Fixed Assets of the licensee under Regulation 7:

(xiv) The Distribution licensee shall account, under appropriate account heads, all charges recovered by him for laying of electric line and erection of electrical plant and creating any other facilities for extending supply to the applicant seeking new connection. The amount so recovered shall be deducted from the Gross Fixed Assets to arrive at the value of Net Fixed Assets of the Licensee's business.

(xv) The amount recovered from the applicant towards expenses incurred in providing electric line or electrical plant or other facilities for the purpose of giving the supply shall not constitute part of equity capital base of the Distribution Licensee for calculation of Returns from the business.

(xvi) No depreciation to the extent of the amount recovered from the applicant towards expenses incurred in providing electric line or electrical plant or other facilities for the purpose of giving the supply may be included in the tariff calculations.

(xvii) The accounting and auditing procedure should incorporate sufficient safeguard for avoidance of double counting or duplication of charges.

It is stated that to the extent of EHT network, GETCO also follows the above principle and thus the cost recovered from the Petitioner has been used to reduce the Gross Fixed Assets of GETCO to arrive at Net Fixed Assets. In case the amount is not recovered from the applicants, then the same would be incurred by GETCO and therefore would be part of the Net Fixed Assets and GETCO and GETCO would be entitled to return on equity and depreciation in relation to the same. This would increase the cost to consumers at large.

9.18. It is submitted that GETCO is a transmission licensee and the costs incurred by GETCO in regard to work carried out by it as a transmission licensee are to be recovered in full. Therefore if there is any change in the recovery of costs from any one consumer, the recovery has to be ensured through other methodology. Therefore any exemption granted to the Petitioner would lead to higher recovery from other consumers.

9.19. That the basis of preparation of the estimate is the latest cost data of the licensee (as provided in Regulation 5). Regulation 6 provides for Standard Cost Data:

- (i) *The Distribution licensee and the Transmission Licensee shall prepare a cost data book covering broad specifications of various items and materials as well as man-hours of various categories of labour needed for providing any electric line or electrical plant used for the purpose of giving supply of electricity based on the actual cost data of the financial year immediately preceding the year in which the estimate is to be prepared.*
- (ii) *The cost data book can include supervision charges at 15% of the total cost of materials and labour.*
- (iii) *The cost data book shall specify the methodology of preparing the estimates.*
- (iv) *The cost data book shall be the basis of making the initial estimate for laying of electric line and/or erecting of electrical plant for extending supply to the applicant.*
- (v) *The Distribution Licensee and the STU/Transmission Licensee shall publish such cost data book and make available its copies to the general public on demand at a reasonable charge.*

GETCO had computed the cost for sub-station as per Regulation 5 read with 4(i) under Commercial Circular dated 30.11.2006 which was to be updated from time to time based on standard cost.

The costs related to the sub-station augmentation were based on the Circular No. 12 dated 03.12.2013 which was applicable at the time of issuance of Estimate to the Petitioner.

9.20. Further it is submitted that the other augmentation work carried out are computed as per the actual work/ length and standard cost data as prevailing.

10. Rejoinder of the Petitioner to Additional Reply submitted by Respondent GETCO:

10.1. It is claimed by the Respondent GETCO that the SIS for the Dholka Substation was based on the loading of the Dholka Substation in 2015-16. As per the information available, the loading of the substation of the Dholka area for which line strengthening is proposed was not more than 50% of the full load capacity but no figures are provided in the reply.

It is confirmed by the Respondent that the charge collected from the Petitioner is for a system improvement scheme and not for releasing power to the petitioner.

The Respondent is deliberately trying to mix 1) the pro rata charges approved by the Commission for substation augmentation which is collected from all HT/EHT new/load extension applicants of Gujarat Distribution licensees, with 2) the pro rata charges collected for line strengthening from the Dholka area where the petitioner is situated. The Commission approves no such line-strengthening charge. It is mentioned that the line charge should be collected if and only if the same is erected/strengthened specifically to extend supply to the applicant.

10.2. In the reply Respondent explained the critical loading of the transmission line and it is claimed by the Respondent that the associated line with 66 KV Dholka GIDC Substation had loading reached up to the thermal limit.

As per the data provided in the reply, the maximum load recorded during FY 2015-16 is 20.32 MVA. The proposal passed by the Respondent GETCO had proposed a double-circuit panther conductor line from an existing single-circuit panther line.

The maximum current carrying capacity of a panther conductor is 480 amperes. The maximum current recorded during FY 2015-16 is nearly 180 amperes (20.32 MVA). The thermal capacity is proportionate to the maximum current capacity of the conductor at a particular temperature which conductor can withstand. **Technically at 180 ampere, the transmission line with a panther conductor will not reach the thermal limit.** The daily order dated 21.07.2023 had particularly asked for the data supporting the proposal. It is claimed that "during the FY 2017-18 the associated line to 66 KV Dholka GIDC substation had reached beyond the thermal loading of the line so the line strengthening is required."

As per the GETCO tariff petition for FY 2019-20, the maximum load recorded of 66 KV Dholka GIDC Substation is 20 MVA (@180 ampere) so it is not possible that the associated line reached beyond the thermal loading of the line.

10.3. In the reply GETCO has submitted that it is authorized to collect line strengthening costs under the System Improvement Scheme (SIS). The line strengthening was not conducted to supply power to the petitioner. Related GERC Regulation does not allow the respondent to collect line strengthening charges under the SIS scheme from the applicants.

10.4. The reply is merely a proposal and requires approval by the Commission by a separate petition. There is no data submitted by respondent 1 which led to the conclusion that the associated line to 66 KV GIDC Dholka substation requires strengthening particularly for releasing the load of the petitioner.

10.5. In the reply, GETCO has referred Section 46 of the Electricity Act.

1. The section allows the Distribution Licensee to recover the charge and not the transmission licensee.
2. The recovery power allows to recovery of reasonable expense incurred in providing an electric line or electric plant used to give that supply.

Whereby, in the case of the petitioner the TFR is issued by Respondent GETCO to release load from the existing system, and the load is released without the strengthening of the said line, making it clear that the line strengthening in question was not proposed and carried out to give supply to the petitioner.

10.6. Respondent introduced new criteria such as last mile connectivity and upstream augmentation in the reply which is not mentioned at all in circular No. 1 dated 30.11.2006. Respondent GETCO is twisting the language for the reason best known to them. It is more than mentioned that "*In case of **application** where there is a need to erect a new EHT Line from the substation along with bay equipment or extend existing EHT line **or strengthen existing EHT line for the applicant/beneficiary** and its entire cost must be recovered from that applicant/beneficiary though the capacity of the line may be more than the consumer requirement.*"

In the case of the petitioner, the line was already sanctioned two years ago and the Technical feasibility report (TFR) was issued by the respondent to release the load from the existing system and the load was released before the completion of the strengthening of the said line. There is no question of collecting charges for the said strengthening of the line proposed under SIS by respondent GETCO according to Circular No. 1 of 2006.

10.7. It is submitted that vide order dated 21.07.2023, the Respondent was asked to provide the following information but none of the queries has been dealt with by the respondent no. 01. For the sake of brevity, the point-wise query and its response filed by Respondent no. 01- GETCO is summarized as under:

1. Whether any system study was carried out before the SIS was approved?

In response to the aforesaid, no reply is given by the Respondent GETCO.

2. If yes, then data providing critical loading of the substation should be provided.

In response to the aforesaid, no data and figures are provided by the Respondent GETCO.

3. Why critical loading is considered when a load is less than 50% of the capacity?

In reply to the aforesaid query, a vague reply has been provided with N1 contingency calculation but at the same time, the respondent has failed to provide copies of any correspondence conducted about that nor provided calculation made at the time of the proposal and in addition to that, not even a copy of the proposal is provided with the reply.

At this juncture, it would be appropriate to mention that the N1 contingency is an SIS proposal and the HT/EHT applicant of new connection/ load extension is not liable to pay for such schemes.

The SIS scheme for the Dholka area is not only line strengthening but includes the erection of a bay at the substation end.

4. Regulatory basis for determination of prorata charges.

In response to that, the Respondent explained the arithmetic basis of prorata charge instead of the regulatory basis. No Regulation is quoted in the reply which supports the claim of prorata charges. Circular no. 1 of 2006 by the Respondent is quoted many times in all the replies filed by the Respondent. This circular clearly said that such line-strengthening charges should be collected from the applicant/beneficiary for whom the work is carried out. It categorically denies prorating charges from subsequent applicants.

5. Basis for determination of prorata charges with calculations.

In answer to that, the calculation is provided without the base for the same. Also, it is not clarified how a bay in the substation can be a part of line strengthening while the work carried out in the substation is already covered under GETCO charges for the substation. The 'P' part of the formula mentioned in Circular 1 of 2006 already covered all switch gears.

6. Regulatory basis for recovery of prorata charges from the consumer.
In reply to this query, no regulation is quoted that empowers Transmission Licensee GETCO to recover prorata charges from the consumer for the SIS scheme.

Hence, the Respondent has failed to respond to the directions of the Commission as mentioned in the daily order dated 21.07.2023, and instead of providing actual figures some vague statements are made which is misleading and far from the truth.

11. Written submission of Respondent GETCO submitted vide affidavit dated 07.12.2023:

11.1. It is submitted that the liability for the consumer/applicants to bear the charges is provided under the law:

“Section 46. (Power to recover expenditure): The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.”

The Commission framed the Gujarat Electricity Regulatory Commission (Licensee’s Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005 (“205 Regulations”) inter alia under section 45 and 46 of the Electricity Act, 2003 which provides for recovery of expenses to provide any electric line or electrical plant for purpose of giving supply to a consumer. The said Regulations inter alia provides as under:

3. DUTY OF THE DISTRIBUTION LICENSEE TO SUPPLY ELECTRICITY ON REQUEST ANY RECOVERY OF EXPENDITURE

.....

(iii) Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant.”

The Applicant is defined under Regulation 2(iii):

(ii) “applicant means to owner or occupier of any premises who makes an application to the distribution licensee for supply of electricity.

The Petitioner is being charged proportionate charges for the network which is used for giving supply to the Petitioner.

The Petitioner has sought to raise the issue that the provision of Act and Regulations refer to distribution licensee. While the obligation to supply is of the distribution licensee, there is no restriction that this would not include the transmission network. When the transmission network is utilised for the supply of power of consumer, then cost of the same is to be also recovered by the consumers. In this regard, the estimate is issued by GETCO to the distribution licensee and distribution licensee includes this part of the estimate issued to the consumer. It is submitted that such costs are also expenses that are incurred for the purpose of giving supply to the consumer. In the case of Petitioner, the supply is admittedly from 66 kw Dholka GIDC sub-station which is of GETCO and therefore the expenses of GETCO in this regard are necessary part of the expenses incurred to give supply to the Petitioner.

This is also clear from Regulations 5 of the 2005 Regulations where it is recognized that in case of EHT Lines or sub-station, the preparation of estimate requires transmission licensee as the transmission licensee lays down such network. Thus, the distribution licensee coordinates with the transmission licensee and accordingly the Regulation has to be applied equally for HT and EHT supply which would also include Transmission Licensee - GETCO.

11.2. The basis of concept of proportionating the cost of DTR is that the equipment's etc would have capacity higher than the capacity sought by the specified applicant. Therefore, the cost is proportioned as per capacity and the cost is recovered from each applicant until the full cost is recovered. Thus, the regulatory basis for pro-rata charges and recovery from consumers for the system strengthening work related to the provision of supply to each consumer is as per the above which has been incorporated in the Commercial Circular by GETCO. Thus, the contention of the Petitioner that the proportionate charges or pro rata charges are not provided for is not correct. This is specifically recognized in the regulations.

11.3. This is also consistent with the fundamental objective of the Electricity Act, 2003. In terms of Section 39 and 40, the State Transmission Utility and the transmission licensees have to develop/build, maintain and operate an efficient, co-ordinated and economical system of intra-state transmission. Similarly, in terms of Section 42 it is the duty of the distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system.

This necessarily requires that any system strengthening work is undertaken in a coordinate, efficient and economical work and therefore when the work is to be carried out, GETCO carries out the work not only based on existing demand but also based on future planning. It is more economical and efficient for GETCO to undertake higher

capacity strengthening work and thereafter each subsequent applicant would pay the proportionate charges for such line.

The above therefore necessarily includes not only the sub-station and line which is constructed after the receipt of application of the Applicant but also the system already established before but whose costs are being proportionated to all subsequent applicants until the full capacity of the system is met.

GETCO follows the concept of proportionate charges for line strengthening work for all consumers for the entire Gujarat.

- 11.4. The Petitioner has sought to raise an issue that the Dholka GIDC sub-station and the scheme for the lines were approved prior to its application and therefore the same cannot be applied to it and cannot be said to be system for supply of electricity to the Petitioner. Such contention is contrary to the fundamental objective of proportionating charges to subsequent applicants. Obviously when there are subsequent applicants, this necessarily means that the system was established or planned to be established prior to such applicants.
- 11.5. It is submitted the Petitioner is being charged proportionate charges for the line which is used for giving supply to the Petitioner. There is no requirement that the costs are to be charged only if line has been erected or strengthened after receiving the application of the Petitioner. If this is followed, then this would lead to inefficient transmission planning. GETCO would not undertake the strengthening work until the application is received and thereafter would undertake the work only to the extent of the application capacity which would mean that timeline for connectivity would be much more and further the marginal cost for such strengthening would be higher. It is more economical and efficient for GETCO to undertake higher capacity strengthening work and thereafter each subsequent applicant would pay the proportionate charges for such line.
- 11.6. The Commercial Circular dated 30.11.2006 was issued by GETCO consistent with the Regulations.
- 11.7. The Petitioner is being charged proportionate charges for the system which is used for giving supply to the Petitioner. It is submitted that the consumers are drawing the power from the grid, whereas in case of generator, generators are injecting power into the grid. If the substation available in the Renewable Energy (RE) feasible list, it means that, there is a load connected at this substation or in cluster and it is feasible to accommodate/integrate the RE power at this location since the load is connected. Thus, adding RE injection at particular substation do not restrict the releasing the load from this substation. It has been specifically stated on affidavit by GETCO that the capacity utilised for evacuation of renewable generation is not charged from the consumers.

The charges are being recovered from consumer on basis of Section 46 read with the 2005 Regulations (as mentioned hereinabove). The Applicant as defined in the Regulation 2(ii) refer to "the owner or occupier of any premises who makes an application to the distribution licensee for supply of electricity."

The above provisions of Electricity Act, 2003 and the Regulations are with reference to recovery from consumers who seek supply of electricity. The renewable energy generators are generators of electricity i.e. who sell/supply electricity themselves and are not consumers seeking supply of electricity. Therefore, the said Section 46 or Gujarat Electricity Regulatory Commission (Licensee's Power to Recover Expenditure incurred in providing supply and other Miscellaneous Charges) Regulations, 2005 do not apply to the renewable generators.

11.8. In addition to the sub-station, the critical loading of the lines emanating from the sub-station is also required. Though substation capacity was available, but the up stream network i.e. associated line with 66kv Dholka GIDC substation had loading reached up to thermal limit. Due to limitation of associated transmission elements, such loading has been considered for TFR. As per the loading details of the upstream/downstream network i.e. associated line with 66 kV Dholka GIDC substation during the Year 2017-18, line had reached beyond the thermal loading of line and therefore the strengthening was required. In view of the above, the strengthening scheme as referred to in Circular dated 23.11.2017 was approved (also referred in the Reply filed by GETCO). Similar to sub-station, in regard to the upstream network augmentation also, the applicants have been charged pro rata charges for the said sub- station strengthening and the Petitioner was also charged on similar basis.

11.9. The Petitioner has wrongly sought to equate the loading of the sub-station with the loading of the line and further made its own assumptions and speculations which is not correct. The maximum load of 20.32 MVA was for the sub-station which led to installation of additional transformer at Dholka Sub-station. This cannot be the basis to raise any issue on the line loading. The calculations and computations alleged by the Petitioner in its Rejoinder to Additional reply are misconceived and unsubstantiated and proceed on assumptions which are not correct. Further the query raised by the Hon'ble Commission was only for Dholka GIDC sub-station and not for the lines and therefore the Petitioner cannot now expand the scope of query and raise issues on the line.

11.10. There cannot be any direction from CGRF to GETCO or a finding that GETCO's estimates are incorrect. Further the present issue has to be decided based on the regulations of the Commission and not on the basis of the CGRF. The Petitioner itself has stated in the

Petition that the CGRF has no authority to interpret the Regulations or Notifications of the Commission.

11.11. It is submitted that there is no approval required from the Commission. There is no such provision in the Regulations for any requirement of approval by the Hon'ble Commission. At no point in the Notification of 9 of 2005 is it written that any proportionate charges to be recovered for strengthening the lines will be subject to approval of Commission. In fact, in this context the Clause 5(i) of the Notification No 9 of 2005 is relevant and is reiterated hereinbelow:

"5. PROVISION FOR HIGH TENSION / EXTRA HIGH-TENSION SUPPLY

(1) *In case of applications where there is a need to erect a new HT line or EHT line from the substation or extend the existing HT or EHT line or **strengthening of existing HT or EHT line in order to extend supply to the applicants**, the Distribution Licensee, on its own in case of HT, and in co-ordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost of terminal and metering arrangements at the premises of the consumer, but not including the cost of meter. Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.*

Therefore, when there is a regulation already on record and the Commission has not mentioned of taking any separate approval and in fact the Regulations contemplate the payment for strengthening of the line, there cannot be any need for seeking approval. GETCO proceeded with the above calculation and had issued the estimate strictly in line with Regulations only.

11.12. It is submitted by the Respondent GETCO that, there was no system improvement scheme approved for Dholka sub-station but rather was approved in 2016-17. Since there was no system strengthening in 2017, there was no system study as such and therefore no data was provided. However, since the system improvement scheme was based on loading data for FY 2015-16.

11.13. The data for FY 2015-16 is as under:

Loading of 66kv Dholka GIDC S/s in MVA.

Ins. Cap. In MVA	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
30	12.78	13.93	13.13	15.98	17.81	18.26	15.18	20.32	13.47	16.21	14.73	15.07

11.14. The data for 2017 is also provided. However, this is not relevant as the decision to strengthen was taken in 2016-17 based on 2015-16 data and the data for 2017 was not available at such time. However, it is submitted that the details are provided herein for 2017.

Loading of 66KV Dholka GIDC S/s in MVA for 2017

Ins. Cap. In MVA	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
30	17.13	17.58	15.53	16.44	15.64	16.1	15.87	17.36	17.93	17.95	17.01	14.62

11.15. In regard to the upstream network, since the Order dated 21.07.2023 has only sought for the system study for Dholka sub-station and not for lines, the same was not provided. However, it is submitted that the details are provided herein for 2016-17:

Loading details for 66kv SALEJADA-DHOLKA GIDC line in Ampere (Panther conducted: Capacity 450 Ampere)

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
2016	354	386	392	420	378	378	392	339	360	308	354	301
2017	345	367	357	401	382	380	364	410	418	448	400	415

11.16. As a matter of practice, GETCO begins to consider, amongst others, critical loading when the load exceeds 80% to decide on the strengthening work to be undertaken. In regard to Salejada Dholka GIDC, the loading in 2016 and 2017 for majority of the months was more than 80%. Further in October 2017, it reached 99.55%. In addition, there was a concern that the Dholka substation was being fed from only one source and it was considered that there ought to be a strong second source to ensure continuous and consistent conveyance of electricity. Therefore, the strengthening was required to maintain the continuous supply and accommodate any future applicants for new/additional load. In view of the above, the strengthening scheme as referred to in Circular dated 23.11.2017 was approved.

11.17. It is submitted that GETCO as STU in terms of Section 39 of the Electricity Act, 2004 has the functions to maintain an efficient and coordinated network and therefore has to take decision on strengthening schemes and improvement schemes based on anticipated demand in the network and before the system become inadequate.

12. Heard the arguments and gone through the submissions. Following issues emerge for deliberation and decision of the Commission in the present petitions.

- I. Whether GERC (Licensee's Power to Recover Expenditure incurred in providing supply and Other Miscellaneous Charges) Regulations, 2005 is applicable to Transmission Licensee also?

It is argued by the Petitioners that GERC Regulation (Licensee's power to recover expenditure incurred in providing Supply and other miscellaneous charges) Regulations 2005 is applicable only to the 'distribution licensee' and not applicable to the 'transmission licensee' unless specifically allowed by the Commission. It is further stated that according to the said Regulation, only Distribution Licensee is allowed to recover expenditure incurred to provide any electric line or electric plant specifically for the purpose of giving such supply to the applicant, whereby, in the present case, Respondent GETCO, who is the Transmission Licensee, has collected the charges for line strengthening. The Petitioners are applicant/consumer of Distribution Licensee UGVCL and should not be considered applicants to the transmission licensee.

It is submitted by the Respondent GETCO that the Petitioner has sought to raise the issue that the provision of Act and Regulations refer to distribution licensee. While the obligation to supply is of the distribution licensee, there is no restriction that this would not include the transmission network. When the transmission network is utilised for the supply of power of consumer, then cost of the same is to be also recovered from the consumers. In this regard, the estimate is issued by GETCO to the distribution licensee and distribution licensee includes this part of the estimate issued to the consumer. It is submitted that such costs are also expenses that are incurred for the purpose of giving supply to the consumer. In the case of Petitioner, the supply is admittedly from 66 kV Dholka GIDC sub-station which is of GETCO and therefore the expenses of GETCO in this regard are necessary part of the expenses incurred to give supply to the Petitioner. This is also clear from Regulations 5 of the 2005 Regulations where it is recognized that in case of EHT Lines or sub-station, the preparation of estimate requires transmission licensee as the transmission licensee lays down such network. Thus, the distribution licensee coordinates with the transmission licensee and accordingly the Regulation has to be applied equally for HT and EHT supply which would also include Transmission Licensee - GETCO.

To deal with this issue, it is appropriate to consider below referred several Sections of the Act, 2003;

Section 43: (Duty to supply on request): --- (1) 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.]

From the above, it is clear that the Act casts duty to supply electricity on request on the distribution licensee. It is also envisaged in the Act that such supply may require extension of distribution mains, or commissioning of new sub-stations.

It is also apt to refer Section 46 of the Act, which reads as under:

Section 46. (Power to recover expenditure): The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

From the above Section, distribution licensee is authorised to recover the expenses incurred in providing electrical line or electrical plant used for the purpose of giving that supply from the applicant.

The terms 'electric line' and 'electric plant' are defined under Section 2 of the Act which reads as under;

(20) "electric line" means any line which is used for carrying electricity for any purpose and includes

- (a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and*
- (b) any apparatus connected to any such line for the purpose of carrying electricity;*

(22) "electrical plant" means any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include-

(a) an electric line; or

(b) a meter used for ascertaining the quantity of electricity supplied to any premises; or

(c) an electrical equipment, apparatus or appliance under the control of a consumer;

The Section 46 read with Section 2 (20) and (22) amply clarifies that cost related to line and equipment of transmission network can also be recovered by the distribution licensee. Further, in exercise of powers conferred by Section 181 read with Section 45 and 46 of the Act, the Commission notified the GERC (Licensee's Power to Recover Expenditure incurred in providing supply and Other Miscellaneous Charges) Regulations, 2005. These Regulations authorise the distribution licensee to recover the expenditure in accordance with Section 46 of the Act. In the chapter V of these Regulations recovery of the costs related to EHT line and sub-station is specified. The distribution licensee recovers such costs from the person requiring supply and pay it to the transmission licensee GETCO.

In view of the above, the contention of the Petitioners that GERC Regulation (Licensee's power to recover expenditure incurred in providing Supply and other miscellaneous charges) Regulations 2005 is applicable only to the 'distribution licensee' and not applicable to the 'transmission licensee' is and thereby costs related to transmission network cannot be recovered by the Distribution Licensee is not accepted.

II. Whether concept adopted by Respondent GETCO about recovery of proportionate line charge is appropriate?

The Petitioners referring to a circular issued by GETCO argued that as per the said circular, the entire cost of erection or alteration of the EHT line should be recovered only from the applicant for whom such erection or alteration of the EHT line is proposed to be carried out even though the capacity of the line maybe more than the applicant's requirement.

Per Contra, it is argued by the Respondent that the said part of the circular is for the line from the substation i.e. last mile connectivity for which the entire cost is recovered from the applicant even if the capacity is higher than the requirement of the applicant. However, the cost of the upstream network augmentation, if required, is pro rata charged to the subsequent applicants also. It is further stated that it would not be rationale that the cost of sub-station is proportionated but other augmentation such as the upstream network augmentation is not proportioned. It is argued by the Respondent GETCO that, if the contention of the Petitioner is accepted, then the applicant would be liable to pay for the entire costs of the line/upstream network, no matter the capacity. It is further argued that it

would be inefficient and impractical to construct the line suited only to the specific applicant and not based on future planning. Further in such case, any new consumer would have to wait for the line to be constructed to match its capacity and there would be delays in providing the connectivity to new customers. Further the costs of such augmentation would be much higher than if the augmentation is done at one time considering current and future needs. This is the reason for planning the transmission system based on future needs but pro-rating the charges towards the existing and new customers. The logic as is applicable to the transformers etc. for pro-rating is equally applicable for upstream lines.

Before dealing with this issue, it is appropriate to refer Clause 5 of the GERC (Licensee's Power to Recover Expenditure incurred in providing supply and Other Miscellaneous Charges) Regulations, 2005, which reads as under;

5. PROVISION FOR HIGH TENSION / EXTRA HIGH TENSION SUPPLY

(i) In case of applications where there is a need to erect a new HT line or EHT line from the sub-station or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in coordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost of terminal and metering arrangements at the premises of the consumer, but not including the cost of meter. Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.

(ii) In case of applications where there is a need to erect a new sub- station for extending supply to the applicant, the Distribution Licensee, on its own or in co-ordination with Transmission Licensee, shall prepare an estimate of the cost of the necessary works in the same way as indicated in subclause 4.2 (i) above. In cases of applications when the capacity of existing substation is required to be augmented, the differential cost of existing and new such electrical plant will form the basis of calculation of pro-rata charges. The estimate of the cost of such substation shall be based on the latest cost data as published by the Distribution Licensee and/or the Transmission Licensee.

To deal with this issue, it is also apt to refer Judgment dated 10.09.2008 issued by Hon'ble High Court of Gujarat on the SCA No. 7234 of 2008 and 7235 of 2008 in the matter of Shihor Steel Rolling Mills Association V/s Paschim Gujarat Vij Company Limited & another wherein, Petitioner sought for quashing and setting aside demand of pro-rata charges by Respondent GETCO. The relevant part of the said judgment is reproduced hereunder;

10 Regulation 5 of Chapter V of Notification No. 9 of 2005 makes the provision for high tension/extra high tension supply and clauses [i] and [ii] deal with applications for erecting a new HT line or EHT line from the substation or extend the existing HT or EHT line so as to provide electricity supply to the applicant, which also empowers the distribution licensee to prepare estimate of the cost of aforementioned work including the cost of terminal and other arrangements to be met with like metering, etc. Clause [ii] of Regulation 5 of Chapter V is pertaining to applications in case where there is a need to erect a new substation for supply of electricity to the applicant and the rest of the procedure is the same and the distribution licensee on its own or in coordination with Transmission Licensee has to prepare an estimate of the cost of the necessary works and when the applications are with regard to capacity of existing substation to be augmented, differential cost of existing and new such electrical plan will form basis of calculation of prorated charges. Therefore, both the abovesaid clauses have provision for preparing an estimate of cost and to charge accordingly.

10.1 The above aspects clearly take care of two types of supply of electricity, namely, for high tension/ extra high tension supply. Besides, the above notification is issued by the Commission after following the procedure and the same, being in consonance with Section 181 and Sections 45 and 46 of the Electricity Act, 2008, cannot be said to be in any manner illegal, which requires interference by this Court in exercise of power under Article 226 of the Constitution of India.

11 Thus, the challenge of the petitioner on the ground that there is no justification or rational for charging Rs.850/on prorated basis falls to ground on both counts, firstly, the respondents have powers as per the Notification No.9 of 2005 issued by GERC in exercise of powers under Section 181 in consistent with Sections 45 and 46 of the Electricity Act, 2003 and the Regulations framed thereunder, namely, Regulation 5 under Chapter V of the said notification, and secondly, justification or rational to charge Rs.850 on prorated basis is with a view to streamline the recovery and to avoid disparity amongst the beneficiaries of different areas of the State and the same is recovered as a policy decision. It further transpires and evident from the record that the purpose behind charging on prorated basis is to recover cost involved from the actual beneficiaries instead of levying in general transmission charges to be reflected on all the existing beneficiaries. Therefore, the action of the respondents to charge Rs.850/on prorated basis from the members of the petitioners for extra demand of supply of energy cannot be said to be, in any manner, unreasonable, arbitrary, irrational or violative of Article 14 of the Constitution of India.

12. So far as the submission of the learned counsel appearing for the petitioner about justification for extra expenditure incurred by creating facility on prorated basis on the demanded power, which is not based on working out of the actual expenditure that

would be required at a particular substation and, thereafter, dividing the same amongst the applicants who applied for power from a particular substation, is concerned, the respondents have worked out the expected expenditure of the entire plant and charged the new applicant on prorata basis. The respondents have made it clear that it had become unavoidable for the erstwhile Board to develop infrastructural facilities and continue the same for providing transmission line and substations to meet power requirement of the new applicants as well as existing consumers considering rapid industrial and increasing power demand. As provided in the earlier circular No.676 dated 5.7.1997, the developmental charge was Rs.900/per KVA and, thereafter, it was reduced, after considering the representation, to Rs.850/per KVA as per the notification. Thus, the justification to charge Rs.850/on prorata basis has genesis with the object sought to be achieved and to streamline recovery and to avoid disparity amongst beneficiaries of different areas of the State and even certain beneficiaries of the same area embedded on different GETCO sources, so that the charges can be recovered evenly from all the beneficiaries.

From the above judgment, it is clear that Hon'ble High Court has upheld the principal of streamline recovery and avoidance of disparity amongst the beneficiaries of different areas of the State and has held that same is being recovered as policy decision. The said judgment further states that it transpires and evident from the record that purpose behind charging on pro-rata basis is to recover cost involved from the actual beneficiaries instead of levying in general transmission charge to be reflected on all the existing beneficiaries. Hon'ble High Court in this judgment has upheld the objective of the Respondent GETCO to develop infrastructural facility to meet power requirement of new applicants as well as existing consumers through streamline recovery of pro-rata charges instead of charging the expenditure incurred for creating facility from the applicant for which such facility is created. The principal of streamline recovery on pro-rata basis upheld by Hon'ble High Court is also applicable to the recovery against erection and/ or strengthening of upstream EHT network of the transmission licensee-GETCO. It is obvious that transmission network elements have a default specific capacity which is not required to match necessarily with the demand of an applicant resulting into creation of additional system capacity. The transmission licensee is bound to create its network as per the transmission planning criteria published by the CEA. Simultaneously, an applicant cannot be made to wait till the demand of full capacity of transmission network element and it is also not appropriate to charge an applicant for the full capacity of a transmission element required to be erected or strengthened. Regulation 5 (i) and 5 (ii) of the GERC Regulation No. 9 of 2005 read with judgment of Hon'ble High Court deals with this aspect. In view of the above, we agree with the submission of the Respondent that the words in Regulation 5 (i) ; *"In case of applications where there is a need to erect a new HT line or EHT line from the sub-station or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants..."* speaks about erection/ strengthening of HT/EHT lines meant for last mile connectivity only and any

excess capacity of this last mile connectivity element is not beneficial to existing consumer and future applicants. On the other hand, any erection/ strengthening of HT/ EHT line other than the network element of last mile connectivity benefits the existing consumers, future applicants along with the current applicant.

We note that transmission network development is a continuous and ongoing activity that the Respondent GETCO is required to perform in accordance with EA, 03. A cost recovery methodology should be such that it complements the ongoing network development and not that it should create unnecessary compulsion on the Respondent GETCO in the form of capacity restriction or should create a situation whereby other consumers are burdened by higher transmission charges.

In view of the above, we find that the concept of recovery of proportionate line charge against erection/strengthening of upstream EHT line adopted by GETCO is not unreasonable.

III. Whether recovery against system strengthening cost in the present case is appropriate?

It is argued by the Petitioner that recovery against erection/ strengthening of HT/EHT line can only be made from an applicant when such work is required to be carried out exclusively for the purpose of extending supply to that particular applicant. It is also argued by the Petitioner that they are not liable to pay charges against the works of line strengthening for the 66 kV Dholka sub-station on the ground, (i) the said work was sanctioned prior to their applications for additional demand, and (ii) the said work is solely meant for system improvement of GETCO network and not for catering demand of applicants/ consumers.

Per contra, it is submitted by the Respondent GETCO that system strengthening work for 66 kV Dholka sub-station was proposed to be carried out based on the progressive demand growth and applications for contract demand under HT/ EHT connectivity. Then Respondent has given detailed justification for requirement of system strengthening for the 66 kV Dholka sub-station in its submission vide affidavit dated 26.10.2023 as noted at para 9 of this Order, hence, not repeated here for the sake of brevity. It is submitted by the Respondent that in accordance with Section 39 and 40 of the Act, 2003 the STU and the Transmission Licensee is mandated to develop/ build, maintain and operate an efficient, co-ordinated and economical system of the intra-State transmission. Similarly, in terms of Section 42, it is the duty of Distribution Licensee to develop and maintain an efficient, co-ordinated and economical distribution system. Hence, it is necessary that any system strengthening work is undertaken in a co-ordinate, efficient and economical manner. Therefore, GETCO carries out the work not only based on existing demand but also based on future planning and it is more economical and efficient for them to undertake higher capacity strengthening work and thereafter, recovering the cost on proportionate basis from the subsequent applicants. This necessarily

means that the system was established or planned prior to an application. It is submitted by the Respondent GETCO that if the concept of charging an applicant for the network element which is used only for supplying to it is followed then it would lead to inefficient transmission planning. Under such circumstance, GETCO would not undertake the strengthening work until the application is received and thereafter would undertake the work only to the extent of the capacity applied which would mean that timeline for connectivity would be much more and marginal cost for such strengthening would also be higher.

To deal with this issue, it is necessary to look into the basis which necessitated the system strengthening work involving 66 kV Dholka sub-station. For this, it is necessary to refer Office Note dated 27.10.2017 submitted by Respondent GETCO vide affidavit dated 28.05.2020;

“Office Note

Sub.: Administrative approval for system requirement at 66 kV level for strengthening 66 kV Simej S/s, Valthera, Dholka GIDC, Pisawada, Ingoli Road, Raipur, Koth S/s from 220 kV Salejada S/s under Nadiad TR circle.

At present following estimate issued/ to be issued by this office to UGVCL,

Sr. No.	Name of Consumer	Registration done at UGVCL	Estimate issued by R&C No./ dtd.	Load demand in kVA	Source S/s & line detail
1	M/s Inox Air Products Pvt. Ltd.	08.02.17	886/16.05.2017	6200 New on 66 kV	220 kV Salejada S/s by 17.00 km, S/C Dog line on D/C tower & 3.50 Km, S/C (3+1) 300 mmsq (Total 20.50 Km).
2	M/s Cadila Pharmaceuticals Ltd.	03.05.17 for 1000 kVA additional (4000 kVA to 5000 kVA) & request letter dtd. 26.07.17 for 4000 kVA on 66 kV.	2124/12.07.17 & revised estimate under approval	4000 on 11 kV to 4000 on 66 kV	Estimate issued earlier for 1000 kVA additional demand from 220 kVA Salejada S/s by laying 8.0 Km U/G Cable, S/C, 3+1, 300 Sqmm line & now, as per Applicant's request to cater existing 4000 kVA on 66 kV from 66 kV Ingoli Road S/s with 1.7 Km U/G Cable S/C, 3+1, 300 Sqmm line (Under approval)
3	M/s Concord Biotech Ltd.	12.05.17	1115/20.06.17	500 Additional (4000 on 11 kV to	220 kV Salejada S/s by laying 8.2 Km U/G Cable S/C, 3+1, 300 Sqmm line.

				4500) on 66 kV	
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Sd/-
EE (R & C)

Sd/-
ACE (R & C)

Sd/-
CE (Project)

Sd/-
MD"

From a bare perusal of the above Office Note, it can be seen that this Office Note is the Administrative Approval detailing the requirement of works to be carried out for system strengthening necessary to release the load of few applicants. This Office Note has been approved by Competent Authority of the Respondent GETCO. Further, it transpires that necessity arisen for system strengthening and related works is on account of load demand by three number of applicants. In the further part of the said Office Note, per kVA cost has been worked out and decided by the Respondent GETCO to recover the same from the applicants seeking power supply from various sub-stations narrated in the said Note. Thus, the requirement of the system strengthening for 66 kV Dholka sub-station arisen on account of load demanded by few applicants and not for any other purpose such as improvement in voltage profile, etc. and approval for recovery of system strengthening charges on per kVA basis from the applicants has also been granted under this Approval. This factual aspect negates the assumption of the Petitioner that there was no approval from the Competent Authority of the Respondent GETCO about the works and methodology for recovery of the cost against such works. Further, we agree with the submission of the Respondent that system planning needs to be carried out in efficient and economical manner requiring them to plan out for higher capacity. We also agree with the submission of the Respondent that the cost of such system strengthening work cannot be recovered from the first applicant/s only but need to be recovered from the subsequent/ future applicants also. This concept of proportionate recovery has also been upheld by Hon'ble High Court as deliberated earlier in this Order.

In view of the above, we find that recovery against system strengthening cost in the present case is appropriate and does not require any intervention by the Commission.

IV. Is there any discriminatory approach adopted by Respondent GETCO in pro-rata charging the costs related to erection/ strengthening of upstream network?

It is contended by the Petitioners that recovery of line strengthening cost by Respondent GETCO is a discrimination towards the applicants of industrial demand nearby Dholka sub-station.

In this regard, the Respondent GETCO submitted that there is no discriminatory approach and the methodology for collection of charges for line strengthening is uniform and is not only for certain areas. The concept of proportionate charges for line strengthening work is applied for the entire Gujarat; however the specific charges are based on the cost of the specific line. That is say whenever line strengthening is done, similar computation for pro-rata charges is done and same is recovered from all beneficiaries, existing and new. The estimates for each applicant is prepared on the basis of the specific line costs but the principle of preparation of estimate is uniform for the entire state. It is further submitted that if the contention of the Petitioner is accepted, there would be discrimination against the initial applicants as against subsequent applicants. Further if the line strengthening is not done at the outset and only on application of each subsequent applicant, this would delay the grant of connectivity for the subsequent applicant and further incur higher cost than if the strengthening is done for higher capacity at one go. The per KVA marginal cost for each small increase in capacity (line strengthening) would be substantially higher than considering the per KVA of the cost for the increase in total capacity at one go.

We note that Respondent GETCO has submitted vide affidavit dated 28.05.2020 that similar approach of recovering proportionate line erection/ strengthening charges is in force across the State. As deliberated earlier in this Order, the concept of charging the cost related to upstream network erection/ strengthening is not unreasonable and since it is being followed across the State, we do not find any discrimination towards the Petitioners. Accordingly, contention of the Petitioners about discrimination is rejected.

We also note that the Petitioners have contended that the capacity enhancement in the various sub-stations involved in the calculation of per kVA charges in the present Petitions are actually for the benefit of renewable energy evacuation facility. The Respondent GETCO has submitted that as per the EA, 03 line strengthening cost can only be recovered from the consumers and not from the RE developers. It is also argued by the Respondent GETCO that the consumers are drawing the power from the grid, whereas generators are injecting power into the grid. If the substation available in the Renewable Energy (RE) feasible list, it means that, there is a load connected at this substation or in cluster and it is feasible to accommodate/integrate the RE power at this location since the load is connected. Thus, adding RE injection at particular substation do not restrict the releasing the load from this

substation. The capacity utilised for evacuation of renewable generation is not charged from the consumers.

We agree with the submission of the Respondent GETCO and find that there is no relation between capacity enhancement undertaken by the Respondent GETCO for Dholka sub-station and RE evacuation list published by GETCO for Dholka sub-station since supplying power and injecting power are two different phenomena amongst which parallels cannot be drawn.

13. In view of the above, we find that the Petitions are devoid of any merits and prayers sought for in the petitions are rejected and accordingly both these Petitions stand disposed off.

However, before parting with the Order, we find it appropriate to direct Respondent GETCO to henceforth publish the list of sub-stations/ locations where upstream system strengthening needs to be planned looking to the limitations of system element/s for granting new/ additional demand, per kVA charge proposed to be recovered from the applicants of new/ additional demand, date of commencement of such recovery, total recovery made as on date and balance recovery as on that date on regular basis to be updated quarterly on their website along with latest cost data for the information and knowledge of the Stakeholders/ Consumers.

14. Order accordingly.

Sd/-
(MEHUL M. GANDHI)
MEMBER

Sd/-
(ANIL MUKIM)
CHAIRMAN

Place: Gandhinagar

Date:28/06/2024