

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

In the matter of:

Gujarat Electricity Regulatory Commission (Terms & Conditions For Green Energy Open Access) (Fifth Amendment) Regulations, 2026

CORAM:

**Pankaj Joshi, Chairman
Hiren Shah, Member**

STATEMENT OF REASONS (SOR)

1. Background:

The Gujarat Electricity Regulatory Commission (GERC) has notified the Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2024 through Notification No. 08 of 2024 dated 21.02.2024 (Principal Regulations). Thereafter, the GERC has made an amendment thereto vide GERC (Terms and Conditions for Green Energy Open Access) (First Amendment) Regulations, 2024 through Notification No. 16 of 2024 dated 23.09.2024, GERC (Terms and Conditions for Green Energy Open Access) (Second Amendment) Regulations, 2025 through Notification No. 06 of 2025 dated 28.03.2025, GERC (Terms and Conditions for Green Energy Open Access) (Third Amendment) Regulations, 2025 through Notification No. 08 of 2025 dated 25.09.2025 and GERC (Terms and Conditions for Green Energy Open Access) (Fourth Amendment) Regulations, 2026 through Notification No. 02 of 2026 dated 30.03.2026.

In connection with the Banking Charges, the Fourth Amendment Regulations specifies that:

“1. Short Title, Extent and Commencement

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- 4) *The Banking Charge specified in the Regulation 17.6 shall be effective from the date of notification of these Regulations up to 30th June 2026 or earlier date on which the Commission notifies such charges through a separate notification of Regulation.*

.....
17.6 Banking facility and Charges
.....

- (viii) *The Banking Charge at rate of Rs. 1.50 per unit shall be effective from the date of notification of these Regulations up to 30th June 2026 or earlier date on which the Commission notifies such charges through a separate notification of Regulation. Thereafter the banking charge for the period starting from the separate notification by Regulations notified by the Commission shall be applicable”*

The Commission was in process of study for determination of framework for banking charges. It was noticed that the said study for determination of the framework for banking charges was still under process and required more time as said assignment involves collection and compilation of voluminous data and its scientific analysis and study to specify the banking charges framework. In the meantime, it is proposed to continue with the existing Banking Charge of Rs. 1.50 per unit till 31.08.2026 or earlier date on which the Commission notifies such charges through a separate notification.

Accordingly, it is proposed to amend the existing GERC Regulations through Draft Fifth Amendment Regulations, providing that:

The Clause 1 (4) shall be substituted as under:

“1. Short Title, Extent and Commencement
.....

- 4) *The Banking Charge specified in the Regulation 17.6 shall be effective from the date of notification of these Regulations up to 31st August 2026 or earlier date on which the Commission notifies such charges through a separate notification of Regulation.”*

The 17.6 (viii) shall be substituted as under:

“17.6
.....

- (viii) *The Banking Charge at rate of Rs. 1.50 per unit shall be effective from the date of notification of these Regulations up to 31st August 2026 or earlier date on which the Commission notifies such charges through a separate notification of Regulation. Thereafter, the banking charge for the period starting from the separate notification by Regulations notified by the Commission shall be applicable.”*

2. Consultation Process:

The Draft GERC (Terms and Conditions for Green Energy Open Access) (Fifth Amendment) Regulations, 2026 dated 06.06.2026 for amendment in Principal Regulations, read with its First Amendment Regulations, 2024, Second Amendment Regulations, 2025, Third Amendment Regulations, 2025 and Fourth Amendment Regulations, 2026, was published and also issued Public Notices on 07.06.2026 in two Gujarati newspapers and one English newspaper, inviting comments / suggestions / objections from the stakeholders in the matter.

Thereafter, the Commission conducted a public hearing on the Draft GERC (Terms and Conditions for Green Energy Open Access) (Fifth Amendment) Regulations, 2026 on 22.06.2026. List of stakeholders who submitted written comments and those who have made representation during public hearing is as shown in Table below:

Sr. No.	Name of Stakeholder	Written Submission	Submission of comments / suggestions during Public Hearing
1	Indus Towers	Yes	Yes
2	Dipa Digital Infrastructure Providers Association	Yes	No
3	Distributed Solar Power Association (DiSPA)	Yes	Yes
4	Federation of Renewable & Consumers of Energy	Yes	No
5	Gujarat Urja Vikas Nigam Limited (GUVNL)	No	Yes
6	Gujarat Electricity user's Association	No	No
7	Torrent Power Limited (TPL)	No	Yes

3. Views of the Stakeholders, Analysis and Findings of the Commission thereon:

i. Banking charge - replacement of Rs. 1.50 per unit with adjustment in kind at 8% of energy banked:

The stakeholders have submitted that the flat banking charge of Rs. 1.50 per unit does not reflect the actual system cost or loss incurred by the distribution licensee and renders renewable energy projects financially unviable. It has been submitted that the Forum of Regulators (FoR), in its Model Regulation on Methodology for calculation of Open Access charges and Banking charges for Green Energy Open Access Consumers (FoR Notification dated 18.06.2023), has recommended that banking

charges be adjusted in kind at 8% of the energy banked. The stakeholders have accordingly requested that the Commission adopt the in-kind model of 8% in place of the monetary charge, contending that it aligns with the national model guidelines, is more equitable and transparent, automatically adjusts with tariff levels and avoids double-counting of losses.

Commission's Analysis and Decision:

The Commission has examined the aforesaid submission. The Commission notes that the present proceedings are confined to the limited issue of extending the operative period of the existing banking charge already forming part of the Principal Regulations, and do not involve final determination of the banking charge framework. The Commission further notes that similar submissions seeking adoption of banking charges at 8% in kind in place of Rs. 1.50 per unit were also raised during the previous amendment proceedings as well as at the time of finalisation of the Principal Regulations, and the Commission had then observed that the framework for computation of banking charges requires detailed study and, pending such finalisation, continuation of the existing charge was necessary in the overall interest of stakeholders. The Commission continues to hold the same view. The Commission has now published draft 6th amendment to the GEOA Regulations, 2024, to put in place methodology for determination of banking charges under the Regulations and invited comments / suggestions from the stakeholders to finalize the same. Upon completion of the said public consultation process with the stakeholders, the Commission shall finalize the methodology and quantum of banking charges, with consideration of comments / suggestions received from the stakeholders. Accordingly, the request for adoption of 8% in kind of banked energy as an interim substitute is not accepted in the present proceedings.

ii. Repeated extension of an interim arrangement – interim banking charge cannot continue indefinitely:

The stakeholders have submitted that the banking charge of Rs. 1.50 per unit was introduced as an interim / temporary arrangement pending determination of an appropriate banking framework, and has since been extended on successive occasions - from 30.09.2024 to 31.03.2025 (First Amendment), to 30.09.2025 (Second Amendment), to 31.03.2026 (Third Amendment) and to 30.06.2026 (Fourth Amendment) - and is now proposed to be extended further to 31.08.2026. It has been contended that the interim arrangement has thereby continued for close to two and a half to three years from the date of initiation of the study, that such an interim arrangement cannot be permitted to assume the character of a permanent mechanism merely through successive extensions, and that repeated extensions defeat the purpose of the statutory determination process and create uncertainty for Renewable Energy Developers and Green Open Access Consumers who make long-term investment and procurement decisions.

Commission's Analysis and Decision:

The Commission has noted the aforesaid submission. The Commission notes that certain stakeholders have acknowledged that the Commission has issued draft 6th amendment to GEOA Regulations along with consultation paper on methodology for determination of banking charges and submitted that they will make their detailed submission on the draft consultation paper.

While noting the aforesaid submission of the stakeholders during the public hearing, the Commission reiterates that the continuation of the existing banking charge is a transitional measure pending finalisation of the banking charge framework. The Commission notes that the present Fifth Amendment does not seek to introduce any new banking charge or alter the existing rate or methodology, but only proposes continuation of the existing banking charge of Rs. 1.50 per unit for a further limited period up to 31st August 2026 or the earlier date on which the Commission notifies such charges through separate Regulations. The determination of the banking charge framework requires collection of voluminous data from utilities, its collation, scientific analysis and detailed study, followed by public consultation, and the said exercise is at public consultation stage. In these circumstances, the Commission is of the view that continuation of the existing banking charge for a short further period is necessary and reasonable, so as to avoid any regulatory vacuum till final determination of the banking charge framework.

iii. Absence of cost-based determination, sufficiency of the Explanatory Memorandum and requirement of meaningful consultation:

The stakeholder has submitted that the banking charge of Rs. 1.50 per unit has never been determined through an independent cost-based exercise, and that it was adopted in the Principal Regulations without a dedicated cost study, publication of supporting data, prudence check or determination proceedings, and that any charge levied on consumers must bear a reasonable nexus with the cost sought to be recovered. It has further been submitted that the Explanatory Memorandum accompanying the Draft Fifth Amendment merely states that the study is under process and does not disclose the date of commencement of the study, the agency entrusted, the methodology adopted, milestones achieved, reasons for delay or the expected date of completion. Relying upon the decisions of the Hon'ble Supreme Court in Cellular Operators Association of India v. TRAI, (2016) 7 SCC 703 and State of Kerala v. Kerala Rare Earth and Minerals Limited, (2016) 6 SCC 323, the stakeholder has contended that consultation must be meaningful and that where the law requires a thing to be done in a particular manner, it must be done in that manner alone. The stakeholder has prayed that the Commission place in the public domain the status, methodology, progress and tentative completion schedule of the ongoing study.

Commission's Analysis and Decision:

The Commission has carefully considered the aforesaid submissions. The Commission reiterates that the present proceedings are limited to the extension of the operative period of the existing banking charge and do not constitute the final determination of the banking charge framework. The Commission accepts the settled principle that charges recovered from consumers must be cost-reflective, reasonable and supported by evidence, and it is precisely to give effect to this principle that the Commission has undertaken a dedicated study for determination of the banking charge framework. The public consultation for final determination of the methodology and quantum of banking charges has already been initiated and shall be carried out through a transparent process considering views / suggestions of the stakeholders as may be filed by them in response to public notice issued by the Commission on the draft 6th amendment to GEOA Regulations and consultation paper on methodology for determination of banking charges. The continuation of the existing charge for a limited period, in the interregnum, does not prejudice the said exercise and is necessary to avoid a regulatory vacuum.

iv. Departure from the Forum of Regulators' recommendation, the Green Energy Open Access Rules, 2022 and the constitutional submission under Article 254:

The stakeholders have submitted that Rule 12 of the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 mandates the Forum of Regulators to prepare Model Regulations prescribing a common methodology for determination of Open Access and Banking Charges, and that Rule 12(2) requires such charges to be non-onerous and to meet only the prudent cost of the distribution licensee. It has been submitted that the Forum of Regulators, in its 82nd Meeting dated 16.09.2022, recommended banking charges at 8% in kind, and that the Commission departed from the said recommendation by adopting Rs. 1.50 per unit without recording detailed reasons. It is further submitted, relying upon Article 254 of the Constitution of India and the fact that electricity is a concurrent subject (Entry 38 of List III), that in the absence of a prevailing State determination, the position under the central Rules / Model Regulation may be made applicable for the interim period.

Commission's Analysis and Decision:

The Commission has noted the aforesaid submissions. The Commission observes that the Model Regulation framed by the Forum of Regulators is recommendatory in nature and is intended to guide the determination of charges by the respective State Commissions, which retain the statutory discretion to determine charges having regard to State-specific regulatory design, network conditions, power procurement structure and policy considerations. The Commission has already initiated the public consultation process by inviting comments / suggestions on the draft 6th Amendment to GEOA Regulations and consultation paper on determination of banking charges. The Commission shall duly consider the comments / suggestion from the stakeholders

In the aforesaid consultation process before arriving at final determination of methodology on computation of banking charges. As regards the submission founded on Article 254 of the Constitution, the Commission notes that the banking charge presently in force has been prescribed by the Commission under the Principal Regulations framed in exercise of its powers under the Electricity Act, 2003, and there is, therefore, no regulatory vacuum requiring substitution by the central Model Regulation. The Model Regulation does not, by itself, operate as a binding determination of charges for the State of Gujarat. Accordingly, the Commission is not persuaded to substitute the existing banking charge with the framework recommended by the Forum of Regulators or adopted in other States during the present limited proceedings.

- v. **Other submissions:** Some of the stakeholders have made any further submissions, suggestions or requests for clarification / amendments touching upon provisions of the Principal Regulations other than the proposed extension of the operative period of the banking charge, as under:
- (a) Single application and single fee for aggregated load at LT level, and revamp of the SLDC portal.
 - (b) Metering - use of existing smart meters and non-mandating of check / standby meters at LT level.
 - (c) Energy accounting, billing and settlement framework for LT-level (below 650V) GEOA consumers.
 - (d) Exemption from Transaction Charges and Meter Reading Charges for LT-level GEOA consumers.
 - (e) Waiver of standby charges for partial Open Access consumers.
 - (f) Capacity transfer flexibility within the same legal entity without relinquishment charges.
 - (g) Non-utilisation / relinquishment of open access rights – notice period and cap on relinquishment charges.
 - (h) Stability of Open Access charges for a minimum period of five years.
 - (i) Clarification regarding the permissible quantum of banked energy under Regulation 17.6(vi).

Commission's Analysis and Decision:

The Commission has noted considered the aforesaid submission. The Commission

observes that the aforesaid submissions / suggestions of the stakeholder do not fall within the scope of the present proceedings and therefore not considered in this proceedings.

4. With consideration to above, the Commission decide and directs to the Office of the Commission that the Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) (Fifth Amendment) Regulations, 2026 be published in the Official Gazette as decided in the foregoing paragraph of this Statement of Reasons.

Sd/-
HIREN SHAH
Member

Sd/-
PANKAJ JOSHI
Chairman

Place: Gandhinagar
Date: 30/06/2026