

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT  
GANDHINAGAR**

**PETITION NO. 1550 of 2015  
(As Remanded by the Hon'ble APTEL)**

In the matter of:

Filing of Petition under Section 62 & 64 of the Electricity Act, 2003 read with GERC (MYT) Regulations, 2011 for Truing up of FY 2014-15, Approval of Provisional ARR and Determination of Tariff for FY 2016-17 of Paschim Gujarat Vij Company Limited (PGVCL) of the Commission's order in Case No. 1550 of 2015 dated 31.03.2016 in implementation of the Judgement dated 7<sup>th</sup> August, 2025 of the Hon'ble Appellate Tribunal for Electricity in Appeal No. 198 of 2016

Original Petitioner No.1	:	Paschim Gujarat Vij Company Limited
Represented by	:	Ld. Adv. Ms. Ranjitha Ramchandran and Mr. S N Parmar
Original Petitioner No.2	:	Gujarat Urja Vikas Nigam Limited
Represented by	:	Ld. Adv. Ms. Ranjitha Ramchandran and Mr. Saumil Shah
Objector No.1	:	New Kandla Salt & Chemical Co. Pvt. Limited
Represented by	:	Nobody was present.
Objector No.2	:	Gujarat Granito Manufacturer's Association
Represented by	:	Nobody was present.
Objector No.3	:	Federation of Kutch Industries Associations
Represented by	:	Nobody was present.
Objector No.4	:	Bhavnagar Induction Furnace Development Association
Represented by	:	Nobody was present.
Objector No.5	:	Sihor Steel Rerolling Mills Association
Represented by	:	Ld. Adv. Ms. Sakia Jakhria and Mr. Vikram Shah
Objector No.6	:	The Kutch Salt & Allied Industries Limited
Represented by	:	Nobody was present.

Objector No.7 : Mr. Vijay Patel  
Represented by : Nobody was present.

Objector No.8 : Mr. H.J. Patel  
Represented by : Nobody was present.

Objector No.9 : Consumer Education and Research Society  
Represented by : Nobody was present.

Objector No.10 : Indus Towers  
Represented by : Nobody was present.

Objector No.11 : Laghu Udyog Bharati - Gujarat  
Represented by : Nobody was present.

Objector No.12 : Utility Users' Welfare Association  
Represented by : Nobody was present.

Objector No.13 : Gujarat Chamber of Commerce & Industry  
Represented by : Nobody was present.

**CORAM:**

**Mehul M. Gandhi, Member**

**S. R. Pandey, Member**

**06/11/2025**

**ORDER**

1. The present proceedings initiated by the Commission in compliance to the directives issued by the Hon'ble Appellate Tribunal for Electricity (APTEL) in its judgment dated 07.08.2025. The Hon'ble APTEL allowed the appeal on the issue of "Time of Use Charges" and remanded back to this Commission for fresh consideration upon hearing the parties. The relevant

portion of the Order dtd. 07.08.2025 read with Order on IA No. 1325 of 2025 in Appeal No. 198 of 2016 is reproduced below:

“  
.....  
.....

*15. It is evident that the Appellant had drawn attention of the Commission to the tariff order dated 31st March, 2015 where it was mentioned that the issue of change in designated peak hours shall be examined by the Commission separately. However, manifestly no such detailed examination has been done by the Commission on this issue. The Commission has simply gone by the response submitted by the 2nd Respondent. No independent empirical study has been undertaken by the Commission to ascertain whether it is necessary to continue prescribing 7 AM to 11 AM as peak hours, thereby permitting the Distribution Licensees to levy Time of Use charges for consumption of electricity during those hours. Even the response of the 2nd Respondent before the Commission was not based on any specific study on this aspect. The 2nd respondent had merely contended that no change in the present peak hours time zone is required as these are in place since very long and the consumers have set their consumption pattern accordingly. The mere fact that this time zone was being treated as peak hour for very long does not in itself justify its continuation for all times to come. It was incumbent upon the Commission to take note of the objections raised by the Appellant Association and to undertake a detailed study to determine whether or not to continue specifying this time zone as peak hour.*

*16. The impugned order, on this aspect, is manifestly cryptic and devoid of proper justification/reasoning. Therefore, the same cannot be sustained.*

*17. In so far the data filed by the 2nd Respondent during the hearing of this appeal on our directions, is concerned it is for the Commission to analyze the same to find out how is it, if at all, helpful in examining the contentions of the Appellant.*

*18. Accordingly, the appeal is hereby allowed and the case is remanded back to the Commission for fresh consideration of the issue No. 21 regarding Time of Use charges upon hearing the parties again and also*

*upon taking note of the study reports filed by 2nd Respondent before this Tribunal in pursuance to our directions. Needless to say that the period in question being 2016-17, the Commission shall endeavor to pass a fresh decision within two months of the date of the judgement.*

.....”

2. The background of this case is as follows:

2.1 The Petitioner Paschim Gujarat Vij Company Limited (PGVCL) along with Co-Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL) had filed their Tariff Petition No. 1550 of 2015 in the matter of Truing up of FY 2014-15, Approval of Provisional ARR and Determination of Tariff for FY 2016-17 under Section 62 and 64 of the Electricity Act, 2003 read with GERC (MYT) Regulations, 2011. Subsequently, the Commission issued the Tariff Order in the Case No. 1550 of 2015 on 31.03.2016.

2.2 M/s Sihor Steel Rerolling Mills Association, who is one of the objectors in Tariff Petition No. 1550 of 2015, participated in Tariff proceedings and submitted its suggestions/objections/views against their Tariff Petition. In the instant case, issue No. 21 before the Commission was with regard to the issue “Time of Use Charges” in the impugned Order and the same had been dealt with as under;

“

***Issue 21: Time of Use Charges***

*M/s Gujarat Granito Manufacturer's Association, M/s Bhavnagar Induction Furnace Development Association and M/s Sihor Steel Rerolling Mills Association have stated that it is mentioned that in print No. 13.3 “For energy Consumption during the two peak periods, viz. 0700 Hrs. to 1100 Hrs. and 1800 Hrs to 2200”.*

*In the Tariff Order dated 31.03.2015 it was mentioned that the issue of change in designated peak hours shall be examined by the Commission separately.*

*No action is initiated by the Commission or DISCOMs in the matter. So Gujarat Granito Manufacturers Association had filed a review petition No. 1506/2015 which is pending.*

***Response of PGVCL***

*Cost of supplying power at peak hours is significantly higher and network requirement for peak hour supply is also high. Thus, tariff structure is devised recognizing this fact and allow recovery at higher rates for peak hour use.*

*As regards to morning peak, it is to state that two peak hours time zones are in place since very long, therefore, the consumers' consumption pattern has been set accordingly. It is natural that as Morning sets, the domestic loads get added in the System and also "Commercial", "industrial" loads etc. Consumers governed by the "Time of Use Charges" also set their consumption pattern accordingly. Therefore, present "Load Curve" reflects the present consumption pattern and behaviour of the consumer. Any change in the peak hour time zone shall change the consumption pattern and accordingly "Load Curve" will also change. Therefore, present peak hours time zones are appropriate and need not to change.*

***Commission's Observation***

*The response of PGVCL is self-explanatory. Since the present Load Curve is controlled due to defined peak hours it does not reflect the unrestricted peak demand during these hours."*

- 2.3 Aggrieved by the said Order, the Objector preferred an Appeal No. 198 of 2016 under the Electricity Act, 2003 before the Hon'ble Appellate Tribunal for Electricity challenging the Commission's Order dated 31.03.2016 on various issues. However, the Hon'ble APTEL restricted the appeal to only one issue i.e. Time of use Charge, as recorded in the Judgement of Hon'ble Tribunal dated 07.08.2025.
- 3 We note that the present matter is remanded matter by Hon'ble APTEL vide its Judgment dated 07.08.2025 in Appeal No. 198 of 2016 with reference to

the Commission's Order in Case No. 1550 of 2015 in respect of Truing up of FY 2014-15, Approval of Provisional ARR and Determination of Tariff for FY 2016-17.

4 We also note that the Commission has been directed by the Hon'ble Tribunal to consider the issue i.e. Time of Use charges as fresh upon hearing the parties again and also upon taking note of the study report as filed by the PGVCL before Hon'ble APTEL.

4.1 In compliance to the judgment of the Hon'ble APTEL, it was decided to hear the parties in the Petition No. 1550/2015 (for PGVCL) in the matter of Truing up of FY 2014-15, Approval of Provisional ARR and Determination of Tariff for FY 2016-17. We further decided and directed the State Owned DISCOM(s) to submit the study reports as filed before the Hon'ble APTEL in the Appeal No. 198 of 2016. The Commission also decided to conduct public hearing to take into consideration the views of all the stakeholders before deciding the present matter.

4.2 The State Owned DISCOM(s) submitted vide affidavit dated 16.09.2025; (1) data of monthly average demand time block wise for CY 2013, 2014 and FY 2015-16 as produced before Hon'ble APTEL and the same data for FY 2016-17 for the purpose for the present proceedings, (2) Study Report dtd. June, 2021 carried out by third party Consultancy Firm Meghaj Capital Advisor Pvt. Limited on the subject matter of "Implementation of Time of day Demand Charges" and (3) Study Report dtd. June, 2021 carried out by third party Consultancy Firm Meghaj Capital Advisor Pvt. Limited on the subject matter of "Implementation of Time of day (ToD) Energy Charges for new Residential Rooftop Solar Consumers".

- 4.3 Sihor Steel Rerolling Mills Association vide affidavits dated 16.09.2025 and written submission vide letter dated 24.09.2025 submitted as under;
- 4.3.1 It is submitted that the tariff design in the Impugned Order provides for two peak blocks, 07:00–11:00 hours in the morning and 18:00–22:00 hours in the evening, with peak-hour charges of Rs. 0.45/kWh for HT consumers up to 500 kVA and Rs. 0.85/kWh for those above 500 kVA. It is contended that ToU charges can only be justified if an actual peak load exists that may reasonably be shifted and if the cost of procurement during such block is higher than the average. In the present case, the morning block does not meet these conditions, as neither a genuine peak demand nor a higher procurement cost exists during this period.
- 4.3.2 It is further submitted that PGVCL has not provided any cogent data or empirical basis for designating 07:00–11:00 hours as ‘peak hours’ for levy of ToU charges on HT consumers. It is alleged that under the guise of a morning peak, where no relative increase in demand is observed compared to non-peak hours, PGVCL is unjustly extracting additional charges, without conducting any consumption or pricing study to justify continuation of such levy.
- 4.3.3 It is submitted that although PGVCL furnished 15-minute block-wise monthly average demand data for CY 2013, CY 2014, and FY 2015-16, covering the 07:00–11:00 hour period (Time Blocks 25 to 40), the comparison of the average of the four maximum hours within this block against the entire 24-hour cycle reveals no rise in demand or peak load during these hours as compared to the daily maxima. It further submitted that open access market data confirms that during 07:00–11:00 hours there is neither peak demand nor higher cost of power, and since PGVCL has undertaken no study to negate this fact, the morning block cannot be treated

as ‘peak hours’ and no ToU charges ought to be levied for consumption during this period.

4.3.4 It is submitted that reliance on the ISGF Report (December 2020) is misplaced, as it was based on a limited sample of 932 UGVCL consumers, not representative of the State or PGVCL’s consumers. It further submitted that the Report itself records that 77% of respondents were unwilling to shift usage, only 8% were aware of ToD tariffs, and less than 10% were prepared to alter consumption, thereby disproving PGVCL’s claim of load shifting. It further submitted that the Report shows no visible impact of ToD charges on consumption patterns, and seasonal variation analysis confirms that demand during 07:00–11:00 hours does not amount to peak load. Accordingly, it contended that continuation of morning peak hours is arbitrary, ineffective, and obsolete.

4.3.5 It is submitted that the Meghraj Report (June 2021) defeats PGVCL’s claim, as the Report itself shows that 86% of HT industrial consumers surveyed were unwilling to shift load and only 3.16% load could practically be shifted under ToD charges. It further submitted that observations regarding demand reduction are unsupported assumptions, while actual savings recorded are less than 0.5%, which is insignificant in comparison to PGVCL’s 17% T&D losses. It further submitted that the Report clearly concludes that ToD demand charges are not feasible, and establishes that there is negligible change in maximum demand. It further submitted that even the Discoms, in the afore-said Report, admitted that ToD charges do not cause shifting of load from peak to non-peak hours.

4.3.6 It is further submitted that Discoms withdrew the night rebate of Rs. 0.45/unit from FY 2023–24 while continuing ToD charges, particularly in the morning 07:00–11:00 block where neither peak load is proven nor

procurement cost is higher. It further submitted that it contradicts the established principle for differential peak and off-peak rates must balance to the weighted average tariff of the consumer category. It further submitted that the outcome claimed from the Meghraj Report is misleading, as no actual shift from peak to night hours occurred due to withdrawal of the rebate, and ToD charges are being continued solely for financial gain, contrary to tariff principles that require the net cost of power per day to remain equal.

4.3.7 It is further submitted that the Meghraj Report, initiated under the Tariff Order dated 31.03.2020, did not exist when the impugned tariff of FY 2016–17 was framed and therefore cannot justify the levy of morning peak hour charges. It further submitted that none of the reports relied upon contain any specific study on the 07:00–11:00 morning block, and no nexus has been established between demand curve and ToU implications. It further submitted that reliance on the study concerning ToD charges for new Residential Rooftop Solar consumers is wholly misplaced, as it pertains to residential solar load and bears no correlation with the consumption patterns of HT industrial consumers.

4.3.8 It is further submitted that the morning hours cannot be considered peak since most industries commence operations only after 09:00–10:00 hrs, commercial and government establishments begin around 10:30 hrs, residential load remains stable due to natural light and climate, and continuous-process industries operate round-the-clock. It further submitted that even the Indian Energy Exchange does not classify 07:00–11:00 hrs as peak, as demand is moderate during this time. It further submitted that the claim of PGVCL regarding higher network requirement in peak hours is termed fallacious, as the network once established remains constant and

also generates higher revenue. It submitted that even for evening peak (18:00–22:00 hrs), the basis for ToU charges has not been substantiated, and the applicable rate requires reconsideration. In this regard it referred the Judgment dated 09.04.2013 of the Hon'ble Tribunal in Appeal No. 257 of 2012 which also reaffirmed in Judgment dated 27.10.2014 in Appeal no. 193, 196, 199 of 2013.

4.3.9 It is further submitted that the National Electricity Policy and Tariff Policy recognise Time-of-Day tariffs, such measures must be based on empirical studies of consumption patterns and load curves. It further submitted that the findings in Appeal No. 257 of 2012 of the Hon'ble Tribunal that, absent a specific pricing study, differential peak and off-peak rates must be designed so the weighted average equals the approved average tariff for that consumer category. It further submitted that in the present case, the levy of Rs. 0.85 per unit for eight peak hours against a rebate of Rs. 0.43 per unit for eight night hours violates this principle, since no specific study of pricing during peak hours was undertaken.

4.3.10 It is further submitted that no commercial or industrial unit has altered its operations to commence after 11:00 hours due to ToU charges, and therefore the morning levy does not influence consumer behaviour. It further submitted that removal of such charges would not cause any upward shift in demand, as procurement cost during the 07:00–11:00 block is not higher than the average cost of power. It further submitted that PGVCL has not provided any data or cost figures to justify the ToU charges, and its reliance on network requirement is fallacious, as there is no correlation with peak-hour pricing. It further submitted that tariff design is the prerogative of the Commission, which must be exercised on sound technical grounds,

based on empirical data and consumer realities, rather than on presumptions or continuance of past practices.

4.4 Paschim Gujarat Viji Company Limited vide affidavit dated 16.09.2025 and written submission dated 13.10.2025 as under;

4.4.1 It is submitted that there is no impact on its Aggregate Revenue Requirement (ARR) as determined by the Commission in the Tariff Order dated 31.03.2016 and subsequently tried up vide Order dated 31.03.2018. It further submitted that it is entitled to appropriate tariff for recovery of its revenue requirements towards distribution and retail supply of electricity in the State. The issue of peak hours and Time-of-Use (ToU) charges is essentially a matter of tariff design, which does not affect the ARR but only guides consumption behaviour. It further submitted that the Hon'ble Tribunal noted that there can be time of use charges and peak hour charges. Hence, there is no issue on the concept of peak hours.

4.4.2 It is submitted that the determination of peak and non-peak hours is a crucial element of tariff design. Peak hours represent periods of higher demand, when the marginal cost of power procurement is higher and the distribution network experiences greater stress. The levy of higher tariff during these hours is not only to recover higher procurement costs but also to incentivise consumers to shift their load to off-peak periods, thereby reducing demand during critical hours and optimising network utilisation. It further submitted that higher demand during peak hours also translates into increased network requirements, since the network has to be planned and established to cater to maximum demand. If consumers are charged the same tariff during peak and off-peak hours, there would be no incentive for them to adjust consumption patterns, which would result in inefficient use of the network.

- 4.4.3 It is submitted that disincentivising consumption during peak hours through higher charges is an appropriate commercial mechanism to induce load-shifting to non-peak hours. Such a regime gives consumers the freedom to organise their consumption in a manner that reduces peak-hour usage and increases off-peak utilisation. It further submitted that, on a collective basis, this helps flatten the demand curve and avoids a sharp ‘mountain’ peak during critical hours.
- 4.4.4 It is submitted that Time-of-Day (ToD) charges are an important Demand Side Management (DSM) measure. They serve as a tariff signal to reflect the higher cost of procurement during peak hours, discourage consumption during those periods, and promote flattening of the load curve. It further submitted that the morning block of 07:00–11:00 hours has historically been recognised as peak hours, as it coincides with commencement of industrial and commercial activity and overlaps with higher domestic load. It further submitted that this categorisation is logical and rational, since industrial and office establishments can defer their intensive operations beyond 11:00 hours to reduce peak charges.
- 4.4.5 It is submitted that in Gujarat, the regime of ToU charges and peak-hour zones has been in place for many years. Consumer behaviour and consumption patterns have already aligned with this framework. Any change in the time zones or removal of peak-hour charges would distort existing consumption patterns and adversely affect load management achieved successfully over the years. It further submitted that the existing demand curve is a direct outcome of the ToU regime, and that the persistence of peak-hour charges has ensured flattening of the curve without causing any significant dip in overall consumption.

4.4.6 It referred Section 62(3) of the EA, 2003, National Tariff Policy, 2016 and MYT Regulations, 2016 and also Hon'ble APTEL judgement in Appeal No. 300 of 2013 dated 12.08.2014 and submitted that the concept of peak hours and the time of use charges is well recognised. The statutory mechanism also recognises the consideration of time of supply as a factor to categorise consumers and also to flatten the peaks and fill up valleys. The intent is also to flatten the demand curve so that the power procurement and network requirement are maintained. This intension of the Act and Policy is largely achieved.

4.4.7 It relied on data (monthly average on time block wise data for the Calendar Year 2013, 2014 and 2015-16) and studies and further submitted that the present demand pattern reflects optimum load management under the ToU regime. It further submitted that without such charges, demand during the morning block would have been higher, leading to increased procurement costs and additional network infrastructure requirements. The apparent similarity of consumption during peak and non-peak hours is attributed to the deterrent effect of ToU charges, which has already moderated demand.

4.4.8 It is submitted that the Third-Party Study conducted by Meghraj Capital Advisors Pvt. Ltd. under directions of the Commission, which confirmed that the prevailing demand pattern is influenced by ToU charges. It further submitted that although the study explored introduction of ToD demand charges, the same was not implemented, but the Report nonetheless recognised that the ToU framework had contributed to load flattening and identified 07:00–11:00 hours as morning peak hours. It further submitted that the conclusions of the study reinforces the purpose of ToU tariffs and validate the existing regime. PGVCL referred Para 2.2 of the said Report

on the aspects of strong relation between TOD Tariff and Load Factor improvement, which reads as under;

*There is a strong co-relation with the introduction of TOD Tariff and improvement in Load factor.....*

*....Higher load factor indicates that the average power generation is closer to the maximum demand of consumers, denoting a higher operational efficiency.*

*..... As the demand increases, more generation from higher cost generating plants has to be despatched thus impacting the overall power purchase cost. This is the typical situation in the peak demand period wherein the cost of procuring power is higher as compared to the low demand period as higher cost generation has to be procured. Accordingly, in order to optimise the power procurement cost, it is important to manage the peak demand of the system. Hence, reduction in cost is another incentive to reduce the gap between the peak and average demand of the system.*

*Further, by reducing the peak load, the fixed cost of meeting a given demand can be lowered, as any increase in demand can be accommodated without additional investments in new generation/transformation capacities. Also, security of supply can be increased without additional cost.*

*By introducing TOD tariff at Peak and Off-peak periods according to marginal cost, customers are incentivized to shift their loads to Off-peak hours, thereby reducing the overall system peak demand and improving the system load factor and also lowering the cost of procurement.*

4.4.9 PGVCL has referred Para 3.3 of the said report on the aspect of demand pattern and management by DISCOMs, which reads as under;

*3.3..... It is to note that, Gujarat DISCOMs are uniquely placed for managing demand / daily load curve in comparison to other States due to segregation of Agriculture Feeders and ToD related provisions in the existing Tariff structure notified by the Hon'ble GERC.*

*It is observed that DISCOMs are managing load/ demand curve as per system requirement by way of managing/rotating supply hours for Agricultural Sector and also due to signal given to consumers by way of ToD element in the existing tariff of bulk consumers namely HT consumers and LT Water Works consumers..... This demand pattern does not reflect actual consumption behaviour of consumers in normal scenario. As stated above, there are two main contributors for keeping demand pattern curve flat to the extent possible for the day are (i) implementation of ToD Tariff; and (ii) Efficient management of agriculture power supply.*

*•ToD Energy Charges: As already explained in earlier chapter, Gujarat being a progressive State, the Hon'ble GERC has already introduced ToD energy charges and hence majority of the HT consumers have already shifted their demand to the extent possible from Peak hours to Off-peak hours / night hours for getting maximum benefit of lower energy charges. This has supported the DISCOMS in managing their demand during Peak hours.*

*....*

*Hence, it is important to note that though the maximum demand is recorded during Rest hours, it should not be concluded that the Peak hours defined by the Hon'ble GERC is not in sync with consumer/system demand pattern. The existing demand pattern is an outcome of the already implemented initiatives like the existing ToD energy charges levied during Peak hours, rebate provided for consumption during night hours and efficient management of agriculture load by DISCOMs.*

4.4.10 PGVCL has further referred Para 4.6 of the said Report on the aspect of commercial implications due to shifting of demand, which reads as under;

*Based on the above analysis, commercial implication due to shift of demand from Peak hours to Night hours is worked out for the below given parameters:*

- Benefit due to deferment of augmentation of capital expenditure.*
- Benefits due reduction in the power purchase requirement during Peak hours and increase during Night hours*
- Benefit due to reduction in technical losses*

4.4.11 It is submitted that the Objector has sought to refer to the data of consumer feedback at Para 5.5 Page 32 of the Report but in the said data, it is clear that the consumers are also willing to pay charges. It is therefore clear that the imposition and continuation of peak hours including morning peak hours has been successful and is noted in the Report. It is specifically noted that demand pattern being kept flat (which is the intent of demand side management as noted in Tariff Policy and by Hon'ble Tribunal) is inter alia due to the Time of day tariff i.e. peak hour charges. It was also noted that existing demand patterns is outcome of the existing TOD energy charges.

4.4.12 It is submitted that the Objector has sought to claim that there is no much variation in the data but also seeks reference to the maximum demand sought to be raised by the Objector of its submission which is not correct and seeks to obscure the fact the demand curve does not show much variation. The Objector also does not address the basic issue that the above patterns are a result of the TOD Charges regime already in force of Gujarat or that the fact that such demand curve despite the existence of peak hour charges demonstrate that the demand during the peak hours would in fact be higher if there were no peak hour charges. This has also been noted by the Report as quoted hereinabove. The Report is by a third party and is not by PGVCL. The Objector has sought to make a vague claim on consideration of the report of 2020 which is contrary to the specific remand direction of the Hon'ble Tribunal:

*“18. Accordingly, the appeal is hereby allowed and the case is remanded back to the Commission for fresh consideration of the issue No. 21 regarding Time of Use charges upon hearing the parties again and **also upon taking note of the study reports filed by 2nd Respondent before this Tribunal in pursuance to our directions.** Needless to say that the period in question being 2016-17, the Commission shall endeavour to pass a fresh decision within two months of the date of the judgement.”*

Accordingly, when the Hon'ble Tribunal has directed for taking note of the Study reports, it is not open to the Objector to now claim that the report should not be considered.

- 4.4.13 It is submitted that the Objector has sought to make a claim on open access power which is without any substantiation. The Objector on its own concludes on the data without producing any data. On other hand, the Report specifically notes why the cost of power rises at Para 2.2 at Page 49 which reads as under:

*“As per Merit Order Dispatch principle, the generation plants are stacked as per the variable cost of generation and cheaper plants are despatched first to meet the demand followed by the higher cost generating plants. As the demand increases, more generation from higher cost generating plants has to be despatched thus impacting the overall power purchase cost. This is the typical situation in the peak demand period wherein the cost of procuring power is higher as compared to the low demand period as higher cost generation has to be procured. Accordingly, in order to optimise the power procurement cost, it is important to manage the peak demand of the system. Hence, reduction in cost is another incentive to reduce the gap between the peak and average demand of the system.”*

- 4.4.14 It is submitted that while considering the aspect of possible shifting of demand due to the TOD on Demand charges in the Report, there is a calculation of the estimated savings in power procurement due to shifting of demand which was calculated based on the variable cost of expected generation from peak hours to night hours. While the total savings is based on the total units being shifted due to TOD on demand charges, the basis is that there is a reduction of Rs. 3.59 per unit in generation cost. Therefore it is clear from the Report that there is saving of power procurement cost.

4.4.15 It is submitted that the Objector does not deal with the above aspect at all and ignoring all submissions of the Petitioner incorrectly alleges that the sole basis of the continuing Peak Hour charges/Time of Use charges/TOD Charges is that it has been in place since long which is incorrect. Firstly even the allegation of it being in place for long is to substantiate that the present load patterns are reflective of such regime and this aspect has also been specifically held in the Report. Further even otherwise, Petitioner has produced the data and the report as well as provided the rationale for considering morning peak hours. It is thus submitted that the data and report considered with the provisions of the Electricity Act, 2003, Policies and Regulations framed thereunder as well as decision of the Hon'ble Tribunal in Appeal No. 300 of 2013 clearly establish the requirement of continuation of peak hour charges. The Objector has referred to decision in Appeal No. 110 of 2009 & Batch which related to the aspect of the "purpose for which the supply is required" which is not in issue here. There is no issue that the time of use is a category. The power is exercised taking into considerations mentioned in the statute. Further Para 50 also recognises subjective satisfaction though based on cogent materials. The materials and relevant considerations have been placed before the Commission.

4.4.16 It is submitted that the consumption data is only available for consumers of Petitioner as a whole and individual data of each consumer is not available time block wise. Even in the Bills raised on individual consumers, the consideration is only for total units in peak hours (i.e. morning peak and evening peak) and the data for consumption by individual consumers on time block or hourly basis or only morning peak hours is not available at this stage after more than 9 years. Therefore any aspect on change in peak hours would raise issues of implementation.

4.4.17 It submitted that the imposition and continuation of peak hours, including the morning block, has been successful, as recognised in the afore-said Report. It further submitted that demand flattening, as envisaged under the Tariff Policy and noted by the Hon'ble Tribunal, has been achieved due to ToU charges. It further submitted that discontinuation of the regime would result in higher demand during morning peak hours and undo the progress achieved in demand-side management. It further submitted that the existence of significant demand during morning hours, despite higher charges, itself demonstrates that the said hours represent genuine peak demand.

4.4.18 It submitted that any change in tariff design retrospectively would adversely affect consumer recovery and impact overall cost recovery. It further submitted that while peak-hour designation does not alter the ARR, it remains necessary to ensure that it needs to be revenue neutral. It further submitted that continuation of ToU charges, including the morning block of 07:00–11:00 hours, is essential to maintain load management, ensure grid stability, and secure fair cost recovery for the distribution licensee. It is further submitted that the present remand is confined strictly to the issue of morning peak hours (07:00–11:00) under Issue No. 21 of the Tariff Order dated 31.03.2016 and limited only to FY 2016-17, as no subsequent Tariff Orders have been challenged and have attained finality.

5 The matter was kept for hearing on 19.09.2025. During the hearing, when the matter was called out, nobody appeared on behalf of the Respondent, nor was any communication received regarding their inability to remain present despite notice, except for the representative of Learned Advocate on behalf of Sihor Steel Rerolling Mills Association.

6 The matter was remanded by the Hon'ble APTEL in its Judgement dated 07.08.2025 in Appeal No. 198 of 2016 limited to revisit and verify the Reports/data submitted on record of the aforesaid appeal by the Respondent no. 2 PGVCL. Further, Hon'ble APTEL has directed to revisit the data submitted on the aforesaid report as well as data submitted before the Hon'ble Tribunal by the Respondent no 2 in support of levy of time of use charges from the consumer for the year FY 2016-17.

As per the hon'ble Tribunal observation and decision it is clearly stated that the Commission shall required to revisit the data submitted by the Respondent no. 2 as well as report on the record before hon'ble APTEL. It is also recognized by the hon'ble APTEL that no independent Empirical study undertaken by the Commission to ascertain whether it is necessary to continue to prescribe 7 AM to 11 AM as peak hours as thereby permitting the distribution licensee to time of use charges for consumption of electricity during those hours. It is also recognized by the hon'ble APTEL that the Respondent No. 2 is responsible before the Commission was not based on any specific study on the levy of TOU charges aspects. The hon'ble APTEL has also observed and held that the second respondent i.e. PGVCL has contented that no change in present peak time zone is required as these are in place since very long and consumers have set their consumption pattern accordingly.

We note that it is necessary to consider the TOU charges introduced by the Commission since long back i.e. from year 2000 .The purpose of introduction of TOU charge by the Commission to flatten the consumption pattern of the consumers. It is fact that the consumption pattern of the consumers are different and distinct from each other with consideration of utilization of electricity by them during the day, season, month to month and

year to year basis dependent on the weather condition and various aspects. The domestic consumer are mostly utilizing the electricity during the day period as well as some part of night hours, while the commercial consumers are utilizing the electricity in the commercial hours of their organization, and that also vary from various activities carried out by such organization like banking industries, insurance mostly working on day time while IT service providing services 24x7 hours and the consumption pattern from such industry vary from each other sometime. The industrial consumers are also utilizing the electricity either in one shift of 8 hours or 16 hours (2 shifts) or 24x7 hours (3 shifts). Similarly, the agriculture sector has been provided power by the licensee 8 hours since long time and also provided by changing the 8 hours schedule on monthly/bi-monthly basis.

The vary purpose of introduction of TOU charge specifying 7 AM to 11 AM by the Commission in its various orders is with consideration that as far as the consumption pattern of the consumers in the State to remain flat and the same may not having much more difference during different hours of the day. The purpose of the same is with regard to the various consumers whose pattern are different try to shift their load, if possible, in the hours when there is lower load of consumption in the system, like the night hours when the consumption of domestic as well as commercial consumers is, mostly after 10 PM to 6 AM, is vary low. The consumption during such period is increased by shifting the load of the industries is helpful to the licensee to optimize their power procurement cost utilization of distribution/transmission network as well as avoid the higher procurement cost in limited hours to supply electricity to the consumers because the distribution licensees have an obligation as USO to supply the electricity to its consumers as and when they demanded.

In the aforesaid background it is necessary to consider the issue arose in the present case by the Commission with regard to levy of TOU charges for FY 2016-2017. It is incorrect to consider the aforesaid issue in isolation ignoring the aforesaid facts.

The reports which are put before the Commission in the present case by the Respondent PGVCL is of FY 2018-19, FY 2019-20, FY 2020-21 and the said study report prepared by Megraj capital advisor pvt. Ltd.. The main purpose of the said study to implement the Time of Day demand charges. Thus, the said study is carried out by the Respondent through Megraj capital advisor pvt. Ltd. with regard to the time of day demand charges introduction for implementation in the tariff to be decided by the Commission.

Similarly, the data submitted by the PGVCL on record is of CY 2013, CY 2014, CY 2015 to FY 2016-17. The said data shows that the consumption pattern variation in different time blocks is less. Moreover, it is also recognized that it varies from season to season and month to month also. It also seems that the deviation in time block wise is not much more or significant reflecting as annual average or monthly average deviation. The reason of such variation is due to the shifting of consumption of different categories as well as the policy adopted by the licensee for supply of electricity in 8 hours basis in different shifts to agriculture consumers.

Similarly, the Commission has introduced a new category of consumer for HTP industries as HTP-IV who are permitted to utilize the electricity during the night hours i.e. from 10 PM to 6 AM and they have been granted concessional rate of energy charge at Rs. 2.25 per Unit and fixed charge at 1/3rd of the Fixed charges specified in Rate HTP-I for FY 2016-17.

The aforesaid background proves beyond the doubt that the consumption pattern of the distribution licensee which consist of different category of consumption i.e. agriculture, residential, industrial etc. remained nearby constant and reflected in average consumption on annual basis in the CY 2013, CY 2014, CY 2015 and FY 2016-17.

In this background, it is also necessary to consider the TOU charges either in the form of penalty or incentive introduced by the Commission in tariff philosophy as well as design to avoid the consumption of energy during different hours of the day and which may create mountain in the load curve of licensee. The purpose of the introduction of peak hour charges to levy the charges on the consumers who are leading for such consumption and creating peak hours power requirement supply by the licensee to such consumers. The consumer who are supporting to avoid the peak hours power requirement are incentivize by way of normal tariff and/or rebate to such consumers.

We also note based on the data of contract demand of various categories of consumers considered by the Commission determination of tariff for FY 2016-17 that industrial category of consumers are having contract demand of 1606 MW out of total contract demand of 14188 MW of the Respondent PGVCL. Similarly, the consumption of electricity by the industrial consumer is 24.84% of total consumption. Further, there are 4732 nos. of industrial consumers are out of total 4839047 nos. consumers. It reflects 0.098% industrial consumers out of total 100% consumers of the licensee.

From the above, it is clear that small class of consumers i.e. industrial consumers being lower number but are higher in terms of connected load with the licensee and consumption of these consumers is also quite higher in comparison to other consumers at large.

We note that the Time of Use (ToU) charges were introduced during the erstwhile GEB i.e. State Electricity Board under relevant provisions of the Electricity Act as a part of the tariff applicable to the consumers. Moreover, it was introduced as part of tariff by the Commission from a first tariff order dated 10.10.2000 in petition No. 19/1999. The benefit of Time of Use charges also recognized by the statutory policy i.e. National Electricity Policy as well as National Tariff Policy framed under the Electricity Act, 2003 are reproduced below:

a) Section 62(3):

*“(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer’s load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required”*

b) National Tariff Policy, 2016

***"8.4 Definition of tariff components and their applicability***

*1. Two-part tariffs featuring separate fixed and variable charges and time differentiated tariff shall be introduced on priority for large consumers (say, consumers with demand exceeding 1MW) within one year and subsequently for all consumers within a period of five years or such period as may be specified. This would also help in flattening the peak and implementing various energy conservation measures."*

We also note that the commission has also introduced merit order dispatch as a part of power procurement by the distribution licensee wherein the procurement of the power carried out by the licensee based on the merit order of energy charge payable to generator by the licensee. We also note that the introduction of Time of Use charge by the commission also helpful to the licensee to flatten the consumption of the consumers at large and it will help to optimum utilization of resources.

The Time of Use charge in the present case need to decide as a remand matter pertaining to FY 2016-17 as directed by the Hon'ble Tribunal.

In the above backdrop after considering the submissions of Objector Association and Respondent PGVCL following issue arises for the decision;

1. Whether the report of Meghraj Capital Advisors Private Limited submitted by the Respondent PGVCL is applicable for arriving at any conclusion in the present case?
2. Whether the data of CY 2013, CY 2014, CY 2015 and FY 2016-17 can be considered for establishment for peak hours during 7 AM to 11 AM ?
3. Whether implication on power purchase cost and stress on network during 7 AM to 11 AM can be justified based on report of Meghraj Capital Advisors Private Limited submitted by the Respondent PGVCL?
4. Whether the ISGF report is relevant to decide the present issue on hand?

Now we proceed to address each of the above issue as under;

7 Since, issue No. 1 & 2 are interwoven we decide to discuss on this two issues i.e.

(1) Whether the report of Meghraj Capital Advisors Private Limited submitted by the Respondent PGVCL is applicable for arriving at any conclusion in the present case? If yes, how it provides insight into the present issue?

&

(2) Whether the data of CY 2013, CY 2014, CY 2015 and FY 2016-17 can be considered for establishment for peak hours during 7 AM to 11 AM ?

7.1 We note that the Hon'ble Appellate Tribunal found that although the tariff order dated 31.03.2015 had recorded that the issue of change in designated peak hours would be examined separately, the Commission failed to conduct any such independent and empirical study. The Commission, while passing the impugned order, merely relied upon the submissions of the Distribution Licensee without undertaking a reasoned analysis or verifying the necessity of continuing to designate 07:00–11:00 hours as peak hours. The Hon'ble Tribunal held that the mere fact that the said time block had been historically treated as peak hours cannot by itself justify its continuance, and that it was incumbent upon the Commission to examine the objections raised and base its determination on data and empirical evidence. The Tribunal, finding the impugned order cryptic and lacking in proper reasoning, set aside the same and remanded the matter to the Commission for fresh consideration of the issue of Time-of-Use charges, directing that the Commission re-hear the parties, take into account the study reports filed by the Distribution Licensee pursuant to the Tribunal's

directions, and issue a fresh decision within two months concerning the tariff period 2016-17. We also note that the Objector Association contended that when the impugned Tariff Order for FY 2016-17 was issued, there was no report/s by the Consultancy firm M/s Meghraj, therefore levy of morning Peak hour charges cannot be justified based on these report/s.

7.2 We note that PGVCL has submitted that the Reports submitted before Hon'ble APTEL are the Reports by third party and not by PGVCL, the objector has sought to make a vague claim on the consideration of the Report 202 which is contrary to the direction of the Hon'ble Tribunal. Thus, when the Tribunal directed to take the note of the Study Report, it is not open to the Objector to now claim that the Report should not be considered.

7.3 We note that the Hon'ble APTEL has remanded back the matter for ToU charges to the Commission for fresh consideration after hearing of the parties and taking note of the study reports filed by the PGVCL before Hon'ble Tribunal. We note that while giving such directions, Hon'ble Tribunal also recognises the period in question is FY 2016-17. In view of the above, we decide that the contentions of the Objector Association about non -relevance of the Study Reports and Data submitted by the PGVCL for consideration of ToU Charges for FY 2016-17 does not hold ground. Accordingly, we decide to proceed further to deliberate and give fresh consideration to the issue on hand keeping in view of the Study Reports submitted by PGVCL inter alia contentions raised by the both parties.

7.4 We note that the objector has contended that the report of Meghraj Capital Advisors Private Limited by the Respondent PGVCL is not applicable in the present case is concerned, We note that the aforesaid report was prepared by the consultant Meghraj Capital Advisors Private Limited in

compliance to directive dated 31.3.2020 given by the Commission to the state distribution licensee and its holding company GUVNL for undertaking of study to explore implementation of time of day demand charges for consumer and time of day energy charges for residential rooftop of consumers. The relevant directive is reproduced as under:

*“Directive 2: The Petitioner is directed to carry out a study to implement Time of Day Demand Charges i.e., Demand Charges leviable during Peak Demand period and that leviable during Off-peak Demand Period.”*

In the aforesaid report, the consultant has recognized time of day tariff in general in chapter 2 of the same report and also recognizes the peak of hours night hours and rest hours considered in Gujarat as a state and time of use charges introduced by the Commission in its tariff order. It also state that the Commission has also introduced time of use discount for LT water work consumers. The said report also states the no of HT/LT consumers load in megawatt of such consumers and consumption of electricity in Mus of such consumers for FY 2019-20 of state distribution licensees. It also states the monthly time of demand for year 2018, 2019 and 2020. It also states time of day demand therein prevailing during 2018, 2019 and 2020. It also states that time of day energy charge introduced as a part of tariff as well as efficient management of agriculture supply. The report recognizes that the there is no dispute with regard to HT/LT no of consumers, load and consumption stated in the report by the consultant.

The Time of day demand reflected in the said report consist of the types i.e. night hours demand, peak hours demand and rest hours demand. The percentage of time of demand tariff also reflected in 3 years i. 2018, 2019 & 2020 also based on the time of day demand recorded in the report. The said report reflects that there is very minor variation in the peak hours and

rest hours. Similarly, the variation in night hours and peak hours is also not significant during 2018 & 2019 but it is significant in 2020 which is recognized as the period of covid epidemic. The demand recognized in night, peak and rest hours is reproduced in the table below:

TOD Demand Sharing (in percentage)

Period	Night Hours	Peak Hours	Rest Hours
2020	30.57%	34.17%	35.26%
2019	31.99%	33.50%	34.51%
2018	32.33%	33.31%	34.36%

From the aforesaid table, it transpires as under:

- i. The variation in demand and consumption during the day consist of night, peak and rest of hours are very less invariably in percentage in each other.
- ii. The demand in peak hours seems less than rest hours. Similarly, the demand in night hours is less in comparable to peak hour.
- iii. Thus, the load and consumption pattern of all consumers consist of major HT consumers consumption seems flatten very less variation. The reason for such less variation is shifting of agriculture load managed by the licensee as well as prevailing the time of use charges prevailing in tariff since long period and accordingly, the tariff structure adopted by the consumers.

It has been further stated in the afore-said Report that

*“Looking to the last three years data, it is observed that the variation in TOD demand in different time blocks is limited based on the hourly maximum demand during the TOD time period. It is to note that, Gujarat DISCOMs are uniquely placed for managing demand / daily load curve in comparison to other States*

due to segregation of Agriculture Feeders and ToD related provisions in the existing Tariff structure notified by the Hon'ble GERC.

It is observed that DISCOMs are managing load/demand curve as per system requirement by way of managing/rotating supply hours for Agricultural Sector and also due to signal given to consumers by way of ToD element in the existing tariff of bulk consumers namely HT consumers and LT Water Works consumers. This is also evident from the fact that maximum system demand is recorded during the Rest hours followed by Peak hours and Night hours. This demand pattern does not reflect actual consumption behaviour of consumers in normal scenario. As stated above, there are two main contributors for keeping demand pattern curve flat to the extent possible for the day are (i) implementation of ToD Tariff; and (ii) Efficient management of agriculture power supply.

**ToD Energy Charges:** As already explained in earlier chapter, Gujarat being a progressive State, the Hon'ble GERC has already introduced ToD energy changes and hence majority of the HT consumers have already shifted their demand to the extent possible from Peak hours to Off-peak hours / night hours for getting maximum benefit of lower energy charges. This has supported the DISCOMs in managing their demand during Peak hours.

**Efficient management of agriculture supply:** Agriculture consumers are connected to dedicated agriculture dominant feeders and a three-phase power is supplied for around 8-10 hours in a day and additional hours in case of specific situation of delayed rain etc. Agriculture category feeder power supply is scheduled in such a manner so that it helps in managing the demand efficiently during Peak hours. Normally, power supply to Agriculture feeders is scheduled in night hours and rest hour's period so that the overall system demand curve is remain flat to the extent possible.

Hence, it is important to note that though the maximum demand is recorded during Rest hours, it should not be concluded that the Peak hours defined by the Hon'ble GERC is not in sync with consumer/system demand pattern. The existing demand pattern is an outcome of the already implemented initiatives like the existing ToD energy charges levied during Peak hours, rebate provided for consumption during night hours and efficient management of agriculture load by DISCOMs.”

The Commission has specified the ToU Charges in the determination of tariff for FY 2016-17, which is reproduced as under;

### TIME OF USE CHARGES

For energy consumption during the two peak periods, viz, 0700 Hrs to 1100 Hrs and 1800 Hrs. to 2200 Hrs.		
(a)	For Billing Demand up to 500 kVA	45 Paise per unit
(b)	For billing demand above 500 kVA	85 Paise per Unit

7.5 We note that on the data of 15-Minute block wise monthly average demand submitted by PGVCL for CY 2013, CY 2014, FY 15-16 and FY 2016-17, the Objector Association has submitted that the average of maximum demand of four maximum hours i.e. (7:00 AM to 11:00 AM) is not higher than the average of maximum demand of 24 hours. We also note that PGVCL has contended that the Gujarat DISCOMs are uniquely positioned to manage the daily demand curve owing to the segregation of agricultural feeders and the implementation of Time-of-Day (ToD) provisions in the tariff structure approved by the Commission. The prevailing demand pattern in the State is not a reflection of natural consumer behaviour but the result of deliberate system management measures—namely, (i) the application of ToD tariffs, which have incentivised High Tension (HT) and LT Water Works consumers to shift load from peak to off-peak hours; and (ii) the efficient scheduling and rotation of agricultural power supply. Consequently, even though the maximum demand may at times be recorded during non-peak (“rest”) hours, it cannot be inferred that the designated peak-hour block is inconsistent with the actual system demand pattern. The existing flattened demand curve is, in fact, an outcome of the sustained effectiveness of ToD energy charges, night-hour rebates, and proactive load management by the DISCOMs under the regulatory framework of the Commission.

7.6 To deliberate on this issue, it is pertinent to refer study report by Meghraj Capital Advisory Pvt. Limited on the subject matter of “Study to implement Time -of-Day Demand Charges”. It is a matter of fact that the said Study Report was aimed to explore possibilities for the introduction of Time-of-Day Demand Charges but the content of the Study Report is quite helpful to decide the present issue on hand. The Report is prepared by the Consultant considering various data of the consumers as well as feeders for the three years i.e. from 2018-19, FY 2019-20 and FY 2020-21. The set of data for all

these three years encompass Discom wise energy drawl and demand pattern, yearly data of Discom wise energy sale which was collected, compared and analysis of the annual, monthly, weekly, and daily data is carried out in the Report. The Report states that to understand the Load profile, Hourly block energy information was collected from DISCOM / ALDC and was segregated into TOD demand monthly chart with time series for three year. Similarly, feeder wise Data for the HT express, GIDC and Industrial demand was also collected and segregated into TOD demand.

7.7 We note that the Report states that from the analysis of the data of the last three years that the variation in Time-of-Day (ToD) demand across different time blocks remains limited, indicating effective load management by the Gujarat DISCOMs. The State is uniquely positioned in comparison to others owing to the segregation of agricultural feeders and the incorporation of ToD provisions in the tariff structure approved by this Commission. The DISCOMs appeared to have successfully managed the daily demand curve through (i) the implementation of ToD tariffs, which have induced HT and LT Water Works consumers to shift consumption from peak to off-peak or night hours; and (ii) efficient scheduling of agricultural power supply, typically confined to night or rest-hour periods. These coordinated measures have collectively ensured that the overall system demand remains as flat as possible throughout the day. Accordingly, even though the maximum demand is often recorded during rest hours, such data does not imply inconsistency between designated peak-hour blocks and actual system behaviour. The existing flattened demand pattern is a direct outcome of sustained ToD energy charges, night-hour rebates, and efficient agricultural load management practices implemented under the regulatory oversight of the Commission.

- 7.8 We note that the Objector Association has submitted that the Meghraj Report itself negates PGVCL's contention, as 86% of surveyed HT consumers were unwilling to shift load and only 3.16% load could practically be shifted under ToD charges. The Report records that actual savings were below 0.5%, insignificant compared to PGVCL's 17% T&D losses, and concludes that ToD demand charges are not feasible, showing negligible change in maximum demand. Even the Discoms therein acknowledged that ToD charges do not result in any meaningful shifting of load from peak to non-peak hours.
- 7.9 We note that PGVCL has submitted that the Study Report of Meghraj establishes a strong correlation between the introduction of ToD tariffs and improvement in load factor, reflecting enhanced operational efficiency. The Report records that higher demand necessitates dispatch of costlier generation, thereby increasing procurement cost during peak periods and underscoring the need to manage system demand. The Objector's contention of negligible variation in data is misconceived, as the flattened demand curve is itself a result of the ToD regime in force. The Report further notes that consumers are willing to pay ToD charges and confirms that continuation of peak-hour charges, including the morning block, has effectively achieved the intended demand-side management objective of maintaining a stable load curve in accordance with the Tariff Policy and Judgements of the Hon'ble Tribunal.
- 7.10 We note that the Study Report states that it is observed from study of the Electricity Act, the National Electricity Policy, the National Tariff Policy, and the GERC Regulations consistently promote demand-side management and support the adoption of the Time-of-Day (ToD) tariff framework as a regulatory measure to optimise system demand and enhance operational

efficiency. Analysis of Gujarat DISCOMs' demand curve indicates that maximum demand generally occurs during Rest hours rather than Peak hours, primarily due to effective implementation of ToD tariffs and efficient management of agricultural power supply. Consumer billing data confirm that most consumers record their maximum demand during Rest hours, demonstrating the moderating effect of the ToD regime. The consumer survey conducted across 235 respondents shows that only 12% were willing to shift load, amounting to a shiftable quantum of merely 3.21% or about 61.55 MW across all DISCOMs. DISCOMs have already implemented ToD energy charges for HT and EHT consumers, aligning consumption with energy availability during peak periods and enabling cost-effective management of system demand. The framework has proved effective in encouraging controlled energy use during peak hours and in shifting consumption to off-peak periods to the extent feasible.

- 7.11 In view of the above, the contention of the Objector Association about maximum demand data submitted by PGVCL don't substantiate morning peak hour timings is not accepted. Merely absence of the Study Report on specific subject of verification of morning peak hour timings cannot negate the facts as emerged in the above discussed Study Report. The demand data of four State Owned DISCOMs don't only represent demand of HT consumers who are paying ToU Charges but also includes demand of other category of consumers. The demand data and demand curve shown in the Report explicitly represents the consumer behaviour of utilisation of electricity. The Objector Association cannot expect as set of data which represents only the demand of HT consumers on the State Grid. Accordingly, the Study Report, at present available with the Commission, don't support the contention of the Objector Association about non relevance of the said Study Report and the data submitted by PGVCL for CY 2013, CY 2014, FY

15-16 and FY 2016-17 are not substantiating the claim of PGVCL. Further, the Study Report encompasses the data of three consecutive years , i.e. FY 2018-19, FY 2019-20 and FY 2020-21, which are immediately after FY 2016-17. The size of State Grid and quantum of load being catered don't create much of the difference to evaluate consumer behaviours either the same has been evaluated based on that data of FY 2016-17 only or that based on the data of very immediate successive years. Moreover, the analysis of data set of three years i.e. FY 18-19, FY 19-20 and FY 20-21 is more reliable than that data set of only one year i.e. FY 2016-17. Further, the contention of the Objector Association based on contents of the Meghraj Report that number of consumers not willing to shift their load than the consumers who are willing to shift and the saving envisaged such shifting is quite low, is basically the result of consumer interaction and feedback form to access the inclination of the consumers if ToD Demand Charges is implemented. The Objector Association has concluded the level of willingness expressed by the consumers to shift the load on introduction of ToD Demand Charges as the behaviour of the consumers showing inertness to the existing ToD Charges. Such kind of conclusion may lead to a situation where removal of existing ToD charges is found to be Grid neutral in terms of load management. In fact the Study Report of Meghraj was not explicitly intended for the purpose to evaluate the reasonableness of ToD charges and timing. In any case, the response of the consumers as reflected in the Study Report showcases that the consumers are having behaviour to respond to ToD based tariff. This fact impliedly suggests that the present load curve, which is reflecting average demand is the response of consumer behaviour to existing ToD timings and tariff. As stated above, in absence of any specific Report on this aspects and as directed by Hon'ble APTEL, the present Study Reports are to be seen with respect to understanding the behaviour of the consumers. Non-establishment of One to One relationship of content of the

Study Report intended for the slightly different purpose with the another aspect of ToU charges cannot make the available Study Report redundant. Accordingly, we decide that the Meghraj Report- June, 2021 as well as data for CY 2013, CY 2014, FY 2015-16 and FY 2016-17 establishes that the Peak Hours 7 AM to 11 AM during FY 2016-17 are justified and all the contentions of the Objector Association contrary to this are rejected.

8. Now we deliberate on the issue whether implication on power purchase cost and stress on network during 7 AM to 11 AM can be justified based on report of Meghraj Capital Advisors Private Limited submitted by the Respondent PGVCL?

8.1 We note that the Objector Association has contended that ToU charges can only be justified if an actual peak load exists that may reasonably be shifted and if the cost of procurement during such block is higher than the average. In the present case, the morning block does not meet these conditions, as neither a genuine peak demand nor higher procurement cost exists during this period. It is also contended that the claim of PGVCL regarding higher network requirement in peak hours is termed fallacious, as the network once established remains constant and also generates higher revenue.

8.2 We note that PGVCL has submitted that the ToU regime and designated peak-hour zones have been in operation in Gujarat for many years, and consumer behaviour has already aligned with this structure. Any alteration or withdrawal of peak-hour charges would disturb the established consumption pattern and undermine the effective load management achieved over time. The existing flattened demand curve is a direct outcome of the ToU framework, which has balanced consumption without reducing overall demand. The principle of differentiating tariffs based on time of supply is

well recognised under Section 62(3) of the Electricity Act, 2003, the National Tariff Policy, 2016, the MYT Regulations, 2016, and the Hon'ble APTEL judgment in Appeal No. 300 of 2013. These legal and policy instruments endorse the use of ToU charges to flatten demand peaks, fill load valleys, and ensure efficient utilisation of generation and network capacity—an objective that has been substantially realised in the State.

8.3 We note that it is stated in the Meghraj Report that due to the application of ToD on demand charges and appropriate incentives/penalties involved, many consumers may consider for shifting of demand from Peak hours to Night hours. This will lead to reduction in the existing feeder loading, thereby keeping the substation power transformers loading within the recommended range i.e., below 85%. Further, this will lead to the deferment in the yearly transformer augmentation processes. (i.e., deferring installation of new transformers by at least 1 year). This capex deferment will help in gaining the additional benefits in terms of yearly savings due to deferment of Y-o-Y ARR for respective one year over asset life of 25 years. Based on the study, it is observed that due to implementation of ToD Demand charges, 61.55 MW load is likely to shift from Peak hours to Night hours. It will help in reduction of peak demand and ultimately deferment of augmentation of transformers due to overloading. Further, even after the load shifting exercise across the selected feeders where the shifting of load is found to be feasible (i.e., GIDC and HT express feeders), it was observed that the % loading will further reduce which in a way will lead to the deferment of the yearly transformer augmentation cost. For the purpose of analysis, standard transformer size is assumed and per transformer cost is assumed at Rs. 5.80 Lakhs per MVA. Accordingly, there will be an estimated deferment of Rs. 15.81 Crore of capitalization.

8.4 In view of the above, we are of the opinion that the present timings and charges are resulting into saving in power purchase cost as well as capital expenditure requirement of the network. Though the above stated Meghraj Report is for the purpose of introduction of ToD Demand Charges, the same ToD charges at present applicable on different time of day is equally harnessing the benefit of reduced power purchase cost and reduction in capex requirement. Accordingly, we decide this contention of Objector Association not valid.

9. Now we deliberate whether the ISGF report is relevant to decide the present issue on hand or not.

9.1 We note that Sihor Steel Rerolling Mills Associations has submitted that reliance of ISGF report is misplaced since it was based on limited sample size. It is further submitted that even out of the smaller sample size, consumers willing to shift their usage due to ToD charges is very minimal.

9.2 It is observe by the Commission that ISGF report on the set of consumers provided with smart meter was for the purpose of evaluating the impact of flexible tariff. Since the subject matter and aspect for carrying out study by ISGF is different and the subject matter on hand at present we decide that the said study report of ISGF is not relevant and requires any deliberation.

10. We note that the Electricity Act, 2003 and both the National Electricity Policy and National Tariff Policy encourage adoption of ToU tariffs as an effective DSM measure to optimise resource utilisation and reduce system peak. We further note that the concept of peak and off-peak pricing has been consistently upheld by APTEL, including in Appeal No. 257 of 2012,

particularly in its judgement subject to the condition that such differentiation must be supported by empirical study of load curve and procurement cost, and that the weighted average energy charge across all time blocks must be aligned with the average cost to serve.

11. The Commission notes that both the Reports were conducted long after the impugned Tariff Order but analyses the data of the period soon after FY 2016-17. Though during tariff determination for FY 2016-17, there was no study at the time to support keeping the 07:00 – 11:00 peak block, the above stated Study Report supports the contention of PGVCL as deliberated above. The contention of the objector Association about modification in the tariff in the Tariff Orders subsequent to FY 2016-17 is irrelevant for the subject matter on hand.
  12. We note that the Electricity Sector is very dynamic and changing very fast with introduction of new technologies. The grid requirement at different time of day and at different weather conditions is becoming quite challenging for the grid operator in terms of optimum grid management. Also, the introduction of Smart Meters shall facilitate real time data flow for the grid operator and distribution licensees which will enable them to optimise the power purchase cost and capex requirements. The consumers will also be facilitated with dynamic tariff. These all shall change the landscape of present electricity sector. In view of this, we decide that a study covering all the above aspects of the grid for introduction of ToU timings and charges should be a regular exercise for the distribution licensee at a specified interval.
- 11 We Order accordingly.

12 With this Order the directions contained in the Judgement dated 07.08.2025 of Hon'ble APTEL in Appeal No. 198/2016 stand implemented.

-Sd-  
**(S.R. PANDEY)**  
**MEMBER**

-Sd-  
**(MEHUL M. GANDHI)**  
**MEMBER**

Place: Gandhinagar  
Date: 06/11/2025

