BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT GANDHINAGAR

PETITION NO. 2491 OF 2025

In the matter of:

Filing of Miscellaneous Petition in compliance to the directions (Refund of past period STOA charges) issued by the Commission in Order dated 29th March, 2025 in the matter of Truing up for FY 2023-24 and Determination of ARR & Tariff for FY 2025-26 to FY 2029-30 for Gujarat Energy Transmission Corporation Limited (GETCO)

Petitioner : Torrent Power Limited

Represented by : Senior Advocate Ms. Deepa Chawan,
Advocate Ms. Reshmarani Nathani,
Advocate Ms. Ruchi Patil,
Mr. Chetan Bundela, Mr. Jignesh Langalia.

Vs.

Respondent : Gujarat Energy Transmission Corporation Ltd.. (GETCO)

Represented by : Senior Advocate Mr. M. G. Ramchandran,
Advocate Ms. Shrishti Khindaria,
Mr. M. J. Vasava,
Mr. P. P. Shah, Ms. F. S. Patel.

CORAM:

Mehul M. Gandhi, Member
S. R. Pandey, Member

17/10/2025

DAILY ORDER

1. The matter was kept for hearing on 30.09.2025.

2. Senior Advocate Ms. Deepa Chawan, on behalf of the Petitioner, submitted that the present Petition has been filed in compliance to the directions issued by the Commission in its Order dtd. 29th March, 2025 in the matter of Truing up of FY 2023-24, Determination of ARR & Tariff for FY 2025-26 to FY 2029-30 for Gujarat Energy Transmission Corporation Limited (GETCO) on the issue of refund of past period Short Term Open Access (STOA) charges.

3. She submitted that during the afore-said tariff proceedings under Section 64(3) of the Electricity Act, 2003, which involved public consultation, an issue of discriminatory treatment in tariff emerged, revealing that consumers of Torrent Power Limited (TPL) licensed area were subjected to differential treatment compared to consumers of State-owned Distribution Companies was raised. In continuation of the proceedings and as directed by the Commission, the Petitioner has approached this Commission seeking parity and equitable treatment for its consumers with those of the State DISCOMs, particularly in respect of the levy of short-term open access charges for power procurement.

4. She further submitted that the State Discoms and TPL are Distribution Licensees, distributing and supplying electricity in the State of Gujarat in their respective area. In terms of the Regulatory Framework governing all the entities, there cannot be a difference in the treatment meted to any particular entities. The practice being followed by GETCO is not only contrary to Section 61 and 62 of the Act but also contrary to the mandate of equal treatment enshrined under the Constitution of India.

5. She referred to Section 40 of the Electricity Act, 2003. She submitted that the principle of equality in the levy of Short-Term Open Access (STOA) charges mandates that consumers, being similarly situated, must be governed by an equally administered regulatory framework wherein likes are treated alike. She further submitted that that the prevailing regulatory framework does not envisage or permit any form of discrimination, and consequently, there can be no differential treatment

in the recovery of STOA charges by GETCO, particularly when TPL forms an integral part of the State's transmission system. Therefore, the charges recovered by GETCO from TPL ought to be refunded so as to be duly passed on to its consumers. She further submitted that delegated legislation, such as the GERC Regulations, must operate strictly within the statutory ambit and does not empower the State Transmission Utility to discriminate in the recovery of transmission charges among distribution licensees. Additionally, the GERC Open Access Regulations do not contemplate any such discrimination.

6. Ld. Senior Advocate Mr. M. G. Ramchandran, on behalf of the Respondent, submitted that there is no discrimination of the four State DISCOMs vis-à-vis either Torrent Power Limited, or any open access consumer in regard to the transmission charges payable in the procurement of power on short term open access basis from power exchange, or from any other source outside the state of Gujarat.

7. He submitted that there exists a valid and rational basis for distinguishing the four State-owned Distribution Companies (DISCOMs), represented collectively through GUVNL, from other licensees such as Torrent Power Limited in the matter of payment of transmission charges for the use of the intra-state transmission system of GETCO. The GUVNL and its four DISCOMs, being successors of the erstwhile Gujarat Electricity Board (GEB), have historically borne the responsibility of financing and committing capacities for the upgradation and expansion of the State's transmission infrastructure in an integrated manner. He further submitted that the transmission planning and development by GETCO have been undertaken based on such commitments, with the entire revenue requirement of GETCO being met primarily through charges recovered from GUVNL/its four DISCOMs as determined by the Commission from time to time, after duly adjusting identified capacities used by other open access users such as TPL. Consequently, the four State DISCOMs are not required to obtain open access (whether long-term, medium-term, or short-term) for use of the transmission system, as they continuously bear the full transmission charges akin to open access users without any right of relinquishment, unlike Torrent Power and other open access consumers who avail access on an optional and capacity-specific basis.

8. He submitted that, unlike other licensees, the four State-owned DISCOMs pay transmission charges to GETCO on a composite basis covering the entire capacity of the intra-state transmission system, excluding only the identified capacity utilized under open access by others. He further submitted that their payments are made comprehensively to meet GETCO's approved revenue requirement and are not based on specific point-to-point usage, thereby negating any need for an additional levy of STOA charges. He further submitted that TPL seeks short-term open access for specific identified interconnection points for power procurement from outside the State, whereas the four State DISCOMs' usage extends across the entire State network up to the Gujarat periphery, fully covered under their composite payment. He further submitted that TPL, unlike the State DISCOMs, has no obligation or commitment toward the upgradation or augmentation of the State transmission system and merely avails open access capacities (LTOA, MTOA, or STOA) at its discretion, while the State DISCOMs bear an ongoing statutory responsibility to fund and support the entire intra-state transmission infrastructure of GETCO.

9. He submitted that if TPL were to share GETCO's total revenue requirement for the entire intra-state transmission system on the same basis as GUVNL/its four State DISCOMs, it would be liable to bear substantially higher transmission charges than those currently applicable for its identified transmission capacity. He further submitted that TPL cannot simultaneously enjoy the benefits of paying only for specific open access capacity while also claiming parity in STOA charges with GUVNL/its four State DISCOMs. He further submitted that all transmission system upgradations in Gujarat are planned primarily to meet the requirements of the four State DISCOMs, whereas for TPL or other users, such upgradations are undertaken only to the extent of their identified and specific transmission needs, and not on a comprehensive, system-wide basis as in the case of the State DISCOMs. To substantiate this, he submitted the Transmission Services Agreement dated 01.04.2005 entered into by GETCO with the Four State DISCOMs (and GUVNL and GSECL) and also the samples of the LTOA and MTOA Agreements entered into by TPL with GETCO.

10. He submitted that the transmission capacity allocated for cost sharing by GUVNL/its four State DISCOMs is substantially higher than what could have been contracted had they been situated similarly to the Petitioner or other open access users identifying specific lines, thereby establishing a clear and reasonable differentiation in their contribution towards transmission charges. The charges paid by the State DISCOMs comprehensively cover all categories of open access—LTOA, MTOA, and STOA—unlike the Petitioner, whose liability is confined to identified transmission usage/Point-to-point connection. He further submitted that the present Petition suffers from misjoinder and non-joinder of necessary parties, as essential stakeholders such as GUVNL, the four State DISCOMs, open access consumers, generators, and the State Load Despatch Centre have not been impleaded. He further submitted that any decision affecting tariff implications must be made only after due proceedings and applied prospectively, as the Petitioner cannot, under the guise of this Petition, seek a modification or amendment of the Tariff Order dated 29.03.2025.

11. He submitted that there is no dispute regarding the Petitioner's liability to pay State transmission charges for inter-State open access, as such payment is mandated under law. He further submitted that the Petitioner's attempt to seek exemption from these charges is misconceived and unsupported by any legal or factual basis, particularly when it has already been making such payments. The contention of alleged discriminatory treatment is denied, as the Petitioner has always been fully aware of the applicable regulatory framework and has availed open access for specific quantum—whether long-term, medium-term, or short-term—being liable to pay corresponding transmission charges. He further submitted that the Petitioner never objected to or challenged the NOC or Standing Clearance issued by the SLDC and has acted upon the same, thereby accepting the applicability of State transmission charges. The present claims have been raised without proper reasons for the factual and regulatory distinctions applicable to the State-owned distribution companies.

12. He submitted that the State Distribution Licensees utilize the transmission and distribution system of GETCO on a dynamic and composite basis, depending on

varying system load, power flow, generation patterns within the State, and procurement of power from external sources. He further submitted that owing to such operational flexibility, the four State Distribution Licensees are entitled to use the entire GETCO network without limitation to any specific area or power flow path and are, therefore, obligated to bear the entire annual revenue requirement of GETCO as determined by the Commission from time to time, after adjusting the identified transmission charges recovered from other open access users under LTOA, MTOA, or STOA. He further submitted that these State Licensees collectively discharge a substantial portion—over 86%—of GETCO's total revenue requirement on a continuous basis, without the benefit of surrender or relinquishment of transmission capacity, unlike other open access users whose liability is limited to identified capacities and specific access periods.

13. He submitted that the four State-owned DISCOMs bear the entire open access liability by paying full transmission charges on a per MW basis, which effectively covers all categories of open access and is higher than the per unit-based STOA charges. The GUVNL/DISCOMs have unrestricted access to the entire mesh network of GETCO, not limited to any point-to-point configuration, thereby enabling them to draw power from any location within the State to any other point. Once such comprehensive access is established, the nature of the transaction—whether intra-state or inter-state—up to the State periphery becomes immaterial for the purpose of determining transmission charges. He further submitted that such aspects of consideration of the State Utility differently was also recognised by the Central Commission in CERC (Open Access in Inter-State Transmission) Regulations 2008 at Clause 25(4). He further submitted that admittedly the Petitioner is not a State Utility. However, the State Government Companies which are Distribution licensees fall within the definition of "State Utility" and therefore as per Regulation 25(4), the charges for State Network are not included. The said Regulation chooses to provide a specific provision for State Utility which it does not provide for private distribution companies.

14. He submitted that the Regulations framed by the Central Commission are binding and cannot be disregarded or selectively applied by GETCO on the ground that they are discriminatory or inconsistent with the provisions of the Electricity Act, 2003. He further submitted that the Hon'ble Tribunal in *Fatehgarh Badla Transmission Company Limited v. Central Electricity Regulatory Commission & Others* vide Appeal No. 352 of 2022, dated 02.05.2023, has categorically held that it has no jurisdiction to examine the vires of the Regulations, as such scrutiny would amount to judicial review, which lies exclusively within the domain of constitutional courts. The Hon'ble Tribunal further ruled that it cannot ignore or bypass the Regulations on any contention that they are contrary to the Electricity Act, 2003.

15. He submitted that the Petitioner is not entitled to seek that this Commission override or disregard the provisions of the applicable Regulations, particularly those framed by the Central Commission, whose validity cannot be questioned or superseded by the Petitioner's vague reference to the regulatory framework or the GERC Regulations. It is neither permissible nor appropriate for the Petitioner to seek any exemption or deviation inconsistent with such binding Regulations. He further submitted that the Petitioner's reliance on the principles of equality and non-discrimination is misplaced, as it fails to consider the distinct regulatory and operational framework governing the allocation of open access to State Distribution Companies, which is inherently different and justified in law.

16. He submitted that the Petitioner is liable to pay State transmission charges in addition to inter-State transmission charges for inter-State open access, and such liability has never been disputed by the Petitioner. The issue raised pertains only to comparison with the State DISCOMs; however, the Petitioner, not being a State utility, cannot claim parity under the CERC Regulations and has not cited any legal provision granting exemption from payment of such charges. As an open access consumer, the Petitioner is bound to pay State transmission charges as determined by this Commission. He further submitted that the Petitioner's position is distinct from that of the State Distribution Companies, as it pays transmission charges only for the specific open access capacity availed—whether long-term, medium-term, or

short-term—on a per-unit basis, whereas GUVNL and its State DISCOMs bear the cost of the entire State transmission network on a comprehensive basis.

17. He submitted that the claim of the Petitioner regarding the STOA charges recovered, require verification by the State Load Despatch Centre (SLDC), which is the competent authority for such matters, and the same are not admitted by GETCO, which reserves its rights in this regard. He further submitted that the reliefs sought by the Petitioner are not maintainable, and no refund can be granted for the past period, particularly for years as far back as FY 2017–18. He further submitted that the Petition is further barred by limitation, delay, and laches. He further submitted that the Petitioner has not demonstrated any grounds warranting interim relief, especially when the matter pertains to a long-standing and settled practice. He further submitted that the Petition is devoid of merit and is liable to be dismissed with costs, as all allegations and contentions raised by the Petitioner are baseless and denied.

18. Senior Advocate Ms. Deepa Chawan, on behalf of the Petitioner, submitted that the objection raised by the Respondent regarding non-impleadment of State Distribution Companies and the State Load Despatch Centre (SLDC) is misconceived. She further submitted that the present Petition merely seeks parity in treatment by GETCO between the consumers of TPL and those of the State DISCOMs, referring to the regulatory treatment of State Distribution Companies only as a precedent supporting the Petitioner's plea. She further submitted that TPL has neither made any allegation against the State DISCOMs nor sought any relief prejudicial to them. Similarly, as SLDC functions as the nodal agency and a functional unit of GETCO, recovering STOA charges strictly in accordance with the tariff orders approved by the Commission, no relief has been sought against SLDC. Accordingly, the question of non-joinder of either the State DISCOMs or SLDC does not arise, and the said objection has been raised by GETCO merely to delay and frustrate the adjudication of the present proceedings.

19. She submitted that the Respondent's contention that the Petitioner, being a private distribution licensee, is not a "State Utility" under Regulation 25(4) of the CERC

(Open Access) Regulations, 2008, and hence not entitled to exemption from State network charges, is misconceived. She further submitted that the GERC (Open Access) Regulations, 2011 do not envisage or permit any discriminatory treatment in the recovery of STOA charges by GETCO, particularly since TPL-D operates within the State and its consumers are equally part of the State's power system. The benefit of parity in levy of such charges must, therefore, extend to TPL-D consumers as well. She further submitted that the Hon'ble CERC could not have intended to differentiate between consumers of State-owned and private distribution licensees, especially as State transmission matters fall outside its jurisdiction. She further submitted that the CERC (Open Access in inter-State Transmission) Regulations, 2008, relied upon by the Respondent, stand repealed upon implementation of the CERC GNA Regulations, 2022, a fact not disputed by the Respondent. She further submitted that even after repeal of the CERC (Open Access) Regulations, the exemption from STOA charges continues for State DISCOMs and their consumers, while TPL-D consumers are still charged by GETCO. Hence, the STOA charges recovered from TPL-D ought to be refunded to ensure parity and fair treatment to its consumers.

20. She submitted that during the tariff proceedings in Petition No. 2419 of 2024, the Respondent disclosed for the first time that the State DISCOMs were exempted from payment of STU STOA charges, a position further clarified in its Reply dated 25.09.2025, wherein it was stated that the State DISCOMs are not subjected to the mechanism for recovery of open access charges prescribed by the State Commission. She further submitted that the Petitioner was unaware whether this aspect had been duly brought to the notice of this Commission. Given that open access availed by any distribution licensee for power procurement does not distinguish between licensees, such exemption ought to have been applied transparently and without discrimination. Hence, it became aware of this differential treatment only recently, and the Respondent's contention that the Petitioner did not challenge the NOC or Standing Clearance issued by SLDC is untenable.

21. She submitted that it operates under the same statutory and regulatory framework as the State DISCOMs, and therefore, imposing STOA charges on its consumers

amounts to discriminatory treatment. It merely seeks parity, and GETCO, being a neutral statutory entity, is obligated to ensure uniform treatment, particularly where its network is not utilized. She further submitted that the Respondent's reliance on the Transmission Service Agreement (TSA) between GETCO, GUVNL, and the State DISCOMs to justify differential treatment is misplaced, as under the Electricity Act, 2003 and the GERC Regulations, open access and recovery of transmission charges must be non-discriminatory and uniformly applied to all beneficiaries. Even assuming the TSA's applicability, it expressly provides that transmission charges shall be as determined by the Commission, as reflected in recitals (14), Clauses 3.5, 3.6, 5.1, 5.2, and Schedule C thereof. She further submitted that under the Postage Stamp Method applicable in Gujarat, transmission charges are to be uniformly recovered from all DISCOMs without distinction. Hence, any method applied to State DISCOMs must equally extend to TPL-D, and reliance on the TSA cannot justify unequal treatment.

22. Regarding the time barred of the petition, she submitted that as recovery of STU STOA charges is a continuous activity and not time-bound. She referred the Commission's Order in Petition No. 1740 of 2018 dated 22.07.2020 and submitted that wherein SLDC was permitted to issue supplementary invoices for past periods. She further submitted that the issue of discriminatory treatment came to light only during the GETCO MYT Tariff proceedings in Petition No. 2419 of 2024. The present Petition, being regulatory in nature and based on the principle of non-discrimination, merely seeks parity for TPL-D consumers within the same statutory and regulatory framework as State DISCOM consumers.

23. She submitted that GETCO, as the State Transmission Licensee, is obligated to administer the grant of open access and levy of transmission charges on a non-discriminatory basis, as no statutory provision distinguishes between distribution licensees in this regard. She further submitted that since TPL-D, despite operating under the same regulatory framework, is being subjected to STOA charges unlike the State DISCOMs, is sought parity in treatment be extended to TPL-D consumers, at least on an interim basis, pending final adjudication by the Commission.

24. She submitted that it maintains direct connectivity with the Central Transmission Utility (CTU) in addition to the State Transmission Utility (STU). The power scheduled through Power Exchange by TPL-D Ahmedabad and Surat does not utilize the State transmission network, as verified from GETCO's interface point records. Conversely, while the State DISCOMs source power through the intra-state network under short-term arrangements, they remain exempted from STOA charges. Hence, the STOA charges recovered from the Petitioner ought to be refunded to TPL-D.

25. Senior Advocate Mr. M. G. Ramchandran, on behalf of the Respondent, submitted that the Petitioner's claim of not using the State network is incorrect, as TPL-D remains interconnected with the STU system and its power flow cannot be isolated from the State grid. He further submitted that power scheduled through Power Exchange utilizes the State network for system stability and balancing; hence, levy of STOA charges is justified. The exemption to State DISCOMs arises from their obligation to bear GETCO's entire annual revenue requirement, unlike TPL-D's limited usage. Therefore, the Petitioner's claim for refund is untenable.

26. Heard the parties. We note that the Respondent has contended that the present Petition suffers from misjoinder and non-joinder of necessary parties, including GUVNL, the four State DISCOMs, open access consumers, generators, and SLDC, and that any determination having tariff implications should be made only after affording due opportunity to all affected stakeholders. We also note that the Petitioner has clarified that the Petition is confined to seeking parity in treatment by GETCO between the consumers of TPL and those of the State DISCOMs, referring to the latter only as a regulatory precedent and not as parties against whom any adverse relief is sought. We also note that the Petitioner has submitted that since the functions of SLDC as a nodal unit of GETCO and no independent relief is claimed against it, accordingly, the question of non-joinder of either the State DISCOMs or SLDC does not arise, and the said objection has been raised by GETCO merely to delay and frustrate the adjudication of the present proceedings.

27. We have considered the submissions made by Ld. Sr. Advocate appearing on behalf of the Petitioner and Ld. Sr. Advocate appearing on behalf of the Respondent GETCO at length. Both the parties have made their submissions and completed their arguments in the matter. We had granted three week time for filing their submissions, if any from the date of hearing. After filing of respective submissions, the matter will be kept for Order, if further hearing is not required.

28. Order accordingly.

-Sd-	-Sd-
(S.R. PANDEY)	**(MEHUL M. GANDHI)**
MEMBER	**MEMBER**

Place: Gandhinagar
Date: 17/10/2025