

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

**Petition No. 1813 of 2019**

**In the matter of:**

**Petition under Section 94 read with Section 62 (3) of the Electricity Act, 2003 and Clause 94 and 102 of the GERC (Multi-Year Tariff) Regulations, 2016 and Clause 54, 72, 80, 82 of the GERC (Conduct of Business) Regulations, 2004 and Clause 3.10, 4.76 and 9.11 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 and for review of prevailing tariff orders seeking re-classification/re-categorization of tariff category applicable on the electricity supply to airports operated and maintained by the Airports Authority of India in the State of Gujarat.**

Petitioner 1 : Airports Authority of India  
Represented by : Advocate Shri Love Kumar Gupta

V/s

Respondent No. 1. : Torrent Power Limited  
Represented by : Shri Jignesh Langalia, Ms. Luna Pal and Shri Vyom Shah

Respondent No. 2 : Paschim Gujarat Vij Company Ltd.  
Represented by : Learned Advocate Ms. Ranjitha Ramachandran and  
Shri J.J.Gandhi

Respondent No. 3 : Madhya Gujarat Vij Company Ltd.  
Represented by : Ms. U.V.Parmar and Shri P.N.Thanawala

Respondent No. 4. : Dakshin Gujarat Vij Company Ltd.  
Represented by : Shri K.M.Patel and Shri G.H.Patel

**CORAM:**

**Shri Anand Kumar, Chairman  
Shri K.M. Shringarpure, Member  
Shri P.J. Thakkar, Member**

**Date: 07/11/2019**

**ORDER**

1. The matter was kept for hearing on 22.10.2019.

2. Learned Advocate Shri Love Kumar Gupta, on behalf of the Airports Authority of India submitted that the Petitioner being a Government organization has been providing services which fall in the category of essential services under the Essential Services Act, 1968. He quoted Section 62 of the Electricity Act, 2003 to seek a preferential/subsidized tariff. He also quoted various provisions of the Electricity Act, GERC (MYT) Regulations, GERC (Conduct of Business) Regulations and GERC (Electricity Supply Code and Related Matters) Regulations and requested the Commission to review, re-classify/re-categorize the current tariff category applicable to the airports operated by the Airports Authority of India in the State of Gujarat and they may be charged the lowest tariff applicable to industrial consumers or create a separate tariff category.

2.1 He also submitted that various judgements of the Hon'ble APTEL and the Hon'ble Supreme Court support his case for a separate tariff category and lower tariff.

3. Learned Advocate Ms. Ranjitha Ramachandran on behalf of the Respondent submitted that the Petitioner has filed the present Petition much beyond 60 days within which review petition was required to be filed as per Regulation 72 (1) of the GERC (Conduct of Business) Regulations, 2004. Further, there has been neither a letter nor a prayer in the present Petition for condonation of delay. She also submitted that the Petitioner had never represented before the Commission as an Objector/Stakeholder in the proceedings of the impugned Order.

3.1 She further submitted that the Petitioner, in the present Petition, has asked for a change in the tariff which can not be introduced in the middle of the current year. Further, the Petitioner has asked for the reimbursement of excess tariff collected by the Distribution Licencees if they succeed in the present Petition which indicates that the Petitioner has sought lower tariff with retrospective effect and this can not be permitted as it will lead to changing the tariff structure of other consumers since the Distribution Licencees have to recover the approved ARR.

3.2 She further submitted that this is not the right time to entertain such a Petition as the Distribution Licencees are now required to file their ARR Petition for true-up of FY 2018-19 and determination of tariff for FY 2020-21. The Petitioner may file his

suggestion for creation of a separate tariff category and lower tariff for the airports being operated by the Airports Authority of India in Gujarat.

4. We have heard the parties. Upon a query from the Commission as to whether any prayer for condonation of delay or a separate petition for condonation of delay is filed along with the present Petition, the Petitioner confirmed that there is neither any prayer nor a separate petition for condonation of delay.

4.1 We note that the Petitioner has sought review of the tariff orders issued by the Commission to seek recategorization/ creation of a separate tariff category. However, it is observed that the Petitioner has not brought out any mistake/error apparent on the face of record or discovery of new matter/evidence which could not be produced by him at the time when the order was passed or any other sufficient reason which warrants the review of the tariff orders. As the petition does not fulfill the above criteria for review of the Order, the submission of the Petitioner in this regard can not be entertained by the Commission and accordingly, the Commission rejects the Petitioner's request for review of the tariff orders.

4.2 As regards the request for lower tariff, it is pointed out that the last tariff orders issued by the Commission have been in operation for more than six months i.e. since 01.05.2019. Further, as per Regulation 28.8 of the GERC (MYT) Regulations, 2016, the Distribution Licensees are now required to file their ARR petitions for true-up of FY 2018-19 and determination of tariff for FY 2020-21 on or before 30.11.2019. Thus, the process for determination of tariff for FY 2020-21 will start any time soon and the Petitioner can file his suggestions/objection for consideration of the Commission in the tariff proceedings. The Commission, therefore, does not consider it appropriate to take up the Petitioner's request for lower tariff when the tariff proceedings for the ensuing financial year are to start soon.

4.3 Moreover, the request for lower tariff also can not be considered at this juncture in view of the fact that the Commission has already approved the ARRs of the Distribution Licensees after due consultation with public and if the tariff for the Petitioner is reduced with retrospective effect as sought by the Petitioner, the shortfall in recovery of approved ARR arising on account of such reduction shall have to be made good by other consumers. This would be against the provisions of Section 62(4) which provides

that no tariff or part of any tariff may ordinarily be amended, more frequently than once in a year, except in respect of FPPPA. Under the circumstances, the Commission decides to reject the petition. The Petitioner is directed to participate in the ensuing tariff proceedings with his objections/suggestions.

5. With this Order the petition stands disposed of.
6. We order accordingly.

-Sd-

**(P.J. THAKKAR)**  
**MEMBER**

-Sd-

**(K.M. SHRINGARPURE)**  
**MEMBER**

-Sd-

**(ANAND KUMAR)**  
**CHAIRMAN**

Place: Gandhinagar

Date: 07/11/2019