

**BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION GANDHINAGAR**

Case No. _____ of 2018

IN THE MATTER OF Petition under the provisions of the Electricity Act, 2003 read with GERC (Multi Year Tariff) Regulations, 2016 (Regulation 10.2) and other applicable Regulations of Hon'ble GERC for approval of tariff dispensation specific to sick industries.

AND

Shah Alloys Limited
5/1 Shreeji House, 5th Floor,
Behind M.J Library, Ashram Road,
Ahmedabad-06

.....Petitioner

AND

1. Paschim Gujarat Vij Company Limited
2. Uttar Gujarat Vij Company Limited.
3. Dakshin Gujarat Vij Company Limited.
4. Madhya Gujarat Vij Company Limited
5. Gujarat Urja Vikas Nigam Limited

.....Respondents

The Petitioner above named most respectfully states as under:



The Petitioner above named M/s. Shah Alloys Limited is a Company incorporated under the provisions of the Company Act, 1956 having its registered office at 5/1 Shreeji House, 5th Floor, Behind M.J Library, Ashram Road, Ahmedabad-06.

1. The Respondent No: 1 to 4 (hereinafter referred to as "DisComs") are Distribution Licensees in the State of Gujarat under within the meaning of Section- 2 (17) of the Electricity Act, 2003 and are undertaking Distribution and retail supply of electricity in different geographical region in the State.
2. The Respondent No: 5 (hereinafter referred to as 'GUVNL') is the holding company of Respondent No: 1 to 4 and undertaking purchase of power in bulk and supply to Respondent No: 1 to 4 for onward supply to retail consumers in the State.
3. The Petitioner is having manufacturing unit located at Santej. The Petitioner is electricity consumers of Respondent No: 2 having contract demand of 5000 KVA supplied at 66 KV voltage level.
4. The petitioner submits that the above unit of the Petitioner is declared as 'Sick Unit' under the provisions of SICA ACT.
5. That by way of present petition, the Petitioner is seeking special tariff dispensation applicable not only in respect of the unit of the Petitioner but for all similarly placed sick units / industries in the State of Gujarat.
6. That in order to understand the scope and purpose of present petition, the Petitioner would like to refer relevant provisions of the Electricity Act 2003 (Act) and GERC (Multi Year Tariff) Regulations, 2016 as under, before making detailed submission.

Section – 62 of the Electricity Act, 2003 read as under:

62. (Determination of tariff): --- (1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –

- (a) supply of electricity by a generating company to a distribution licensee: Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;
- (b) transmission of electricity ;
- (c) wheeling of electricity;
- (d) retail sale of electricity:

7. That Regulation 10.2 of GERC (Multi Year Tariff) Regulations 2016 read as under:

Notwithstanding anything contained in these Regulations, the Commission shall have the authority, either suo-motu or on a petition filed by any interested or affected party, to determine the tariff of any Applicant.

8. That in term of the provisions of the Electricity Act, 2003 read with Regulations of Hon'ble Commission, this Hon'ble Commission is empowered to decide and approve the tariff dispensation to the specific class of consumers as sought in the present petition.
9. That in the given circumstances and facts as outlined hereinafter, the Petitioner, by way of present petition, is invoking jurisdiction of Hon'ble Commission requiring for special dispensation / relief in tariff applicable for sick units / industries in the State.

10. It is submitted that in the modern world, the industrial and commercial activities are the backbone of economy giving

large amount of employment and revenue to Government. In the present scenario of global recession coupled with economic slowdown, industries are passing through its toughest phase and facing challenges for its survival. In such scenario, it is difficult for the sick industries to compete in the market due to higher power cost as these industries are already facing financial crunch. In given situation, it is respectfully submitted that Hon'ble Commission should play its active role for deciding the special dispensation in tariff for sick units / industries for its revival and survival.

11. It is respectfully submitted that Electricity Act 2003 envisage crucial role to be played by this Hon'ble Commission and plenary powers are given to this Hon'ble Commission under the Act to safeguard interest of consumer like the Petitioner and similarly placed other consumers in the State by making available electricity at the commercially viable rate.
12. It is submitted that the industries in the State are passing through a crucial stage struggling for its survival on account of following amongst other reasons:
 - a. It is submitted that the State of Gujarat does not have natural resources and situated far from the States having.
 - b. The industrial tariff for power in the State of Gujarat is comparatively higher and therefore, they could not compete with large units situated in other States having availability of cheaper power.
 - c. That in last several years, the situation has further aggravated due to several other factors such as worldwide recession, dumping of material from China at cheaper rate, cheaper power rates in other States and thereby supply from such States to the State of Gujarat and other similar factors.

d. The combined effect of all these factors including increase in power cost of DisComs have affected the some industries severely making it completely unviable and sick. At this stage, such sick units cannot survive / revive if some supports, in terms of making available power at affordable rate, are not extended and remedial measures are not initiated on urgent basis.

13. At this stage, the sick industrial units cannot survive / revive if some supports, in terms of making available power at affordable rate, are not extended and remedial measures are not initiated on urgent basis.

14. It is respectfully submitted that there is urgent and utmost need to revive sick industries in the State by providing electricity to sick units at special rates. This would not only benefit to Respondents but also would be benefitted huge number of families who are directly or indirectly dependent on such industries. Revival of sick industries would help in job creation apart from increase in Tax / other income to the Government, increased revenue to DisComs in future and harmony in society etc.

15. In light of above background, the Petitioner crave leave to propose following for granting special tariff dispensation to sick units/ industries:

a. At the outset, the Petitioner would like to make it clear that the Petitioner and similarly placed other sick units / industries do not want any additional gain / concession at the cost of DisComs or do not want additional gain / concession at the cost of other consumers in the State.

b. It is respectfully submitted that in the existing retail tariff structure of the State, cross subsidies is imposed on the industrial consumers of electricity. By definition, the Cross Subsidies is the mechanism whereby, some consumers groups are charged at higher tariff as compared to the

cost of power supply to them. The additional revenue so generated from them is used to tide over revenue shortfall from other consumer groups who are charged lower tariff as compared to cost of supply to them. This means that certain categories of consumers who are having enough paying capacity such as industrial / commercial category of consumers are cross subsidizing the vulnerable section of society e.g. agricultural, BPL, residential consumers etc.

c. In case units / industries become sick, naturally they do not have enough paying capacity and therefore cannot be expected to cross subsidize other category of consumers on the ground of higher paying capacity. Thus, it is unjustified, unreasonable and illogical to impose cross subsidies on the sick industries who are otherwise struggling for its existence and do not have enough paying capacity to cross subsidize others section of society. As such, sick industries itself fall under vulnerable class requiring support from all sides for its revival and survival.

d. The amount of cross subsidies imposed on industrial category of consumers is quantified by Hon'ble Commission in the recent tariff order dated 31.03.2018 of DisComs (at Para - 8.3 of Chapter- 8 of Paschim Gujarat DisCom Order). The Para 8.3 of the order read as under:

8.3 Cross Subsidy Surcharge

The Cross Subsidy Surcharge is based on the formula given in the Tariff Policy as below:

$$S = T - [C / (1 - L/100) + D + R]$$

Where,

- *T is the tariff payable by the relevant category of consumers, including reflecting the Renewable Purchase Obligation*
- *C is the per unit weighted average cost of power purchase by the Licensee, including meeting the Renewable Purchase Obligation*
- *D is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level*
- *L is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level*

- R is the per unit cost of carrying regulatory assets.

The Cross Subsidy Surcharge based on the above formula is worked out as shown in the Table below:

Table 8.4: Cross Subsidy Surcharge for FY 2018-19

Sr. No.	Particulars	Units	HT Industry
1	T	Rs/ kWh	7.34
2	C	Rs/ kWh	4.22
3	D	Paise/ kWh	14.61
4	L	%	10%
5	S (Cross Subsidy Surcharge)	Rs/ kWh	2.51

$$S = 7.34 - [4.22/(1-0.10) + (14.61/100) + 0] = 2.51$$

Thus, Cross subsidy surcharge as per Tariff Policy, 2016 works out to Rs. 2.51 /kWh for the four State owned Distribution companies viz. DGVCL, MGVCL, PGVCL and UGVCL.

- e. From the above, it can be seen that the power purchase coat of DisCom is Rs. 4.22 per unit which also includes charges for transmission of power.
- f. The tariff of Rs. 7.34 per Unit is applicable to industrial consumers including sick industries as against cost of power purchase of Rs. 4.22 per unit. Here it is relevant to note that sick industries itself is financially vulnerable and cannot take burden of others when these industries itself struggling for their survival and requiring support from all sides.
- g. This situation is against the principle of natural justice and cannot be the objective of the Electricity Act, 2003.
- h. In the given circumstances when sick industries are struggling for its survival, as immediate measures, special dispensation may be provided for the sick industries to give relief in tariff atleast charging them at cost of power purchase.
- i. It is submitted that providing power to sick industries at maximum Rs. 4.40 per unit (including demand charges) as against actual tariff of Rs. 7.34 per unit would provide great relief to sick industries in the present situation and would ensure revival of sick industries.

j. On power exchange i.e. IEX average cost of energy per unit for the FY 2017-18 is Rs. 3.26 per unit. Therefore even if DisCom buy power from open access, they would earn by supplying power to sick industries at Rs. 4.40 per unit.

16. In the facts and circumstances of case, it would be prudent and reasonable to provide power supply to sick industries at maximum Rs. 4.40 per unit (including demand charges). If power is supplied to sick industries at these rates, there would not be any adverse financial implication to DisComs or for the other consumers in the State. On the other hand, the closing down of operations of sick industries due to unviable electricity tariff may result into (i) creation NPAs, (ii) hampering of infrastructure activities in the State as well as Nation due to loss of production (iii) loss of revenue to DisComs, (iv) loss of revenue to Government, (v) loss of direct / indirect employment.

17. In case, sick industries are supplied power supply at above rate, it would act as tonic and will economize the cost of production and ensure the revival of the industries.

18. The petitioner submits that taking into cognizance of the adverse impact on the economy of the State and society as a whole due to close down of sick units, even State Legislative Assembly is considering to grant special relief to the sick industries.

19. The petitioner would like to further submit that in order to prevent misuse of special tariff dispensation granted to the sick industries as sought hereinabove and to avoid any type ambiguity and for proper implementation of the provisions of special tariff dispensation. following criteria may be laid down to become eligible for special tariff dispensation by sick units:

a. The unit is having established in Gujarat for more than 10 years

- b. The unit should be operational condition
- c. The unit should have minimum turnover of Rs. 25 Crores
- d. The unit should have stood registered with BIFR or GBIFR under the cessation of SICA Act

OR

Should be an eligible unit as per Government of Gujarat's Industrial Policy for relief and concession to the viable sick industrial enterprise dated 11.09.2017.

- e. The net worth of unit should stand negative for last three years ending FY 2018
- f. The beneficiary unit will be entitled to get power only upto 30 MW from DisCom under special tariff dispensation.
- g. The special dispensation may be allowed for period of 7 years.

20. The Petitioner submits that providing special tariff dispensation to the sick units is in no way contrary to the provisions of Electricity Act 2003 in any manner, rather it would be in accordance with the provisions of Act/ Regulations.

21. The Petitioner crave leave to add, alter or amend this petition as and when necessary and to urge such other and further grounds at the time of hearing as may be necessary.

1. Prayer:

In the facts and circumstances of the case, it is the prayer of the Petitioner that:

- (a) Hon'ble Commission may please to take on record the above petition,

- (b) Hon'ble Commission may please to grant the opportunity of being heard to the petitioner,
- (c) Hon'ble Commission may please to approve special dispensation in the tariff for sick industries at maximum Rs. 4.40 per unit (including demand charges).
- (d) During pendency of the Petition, as an interim relief, Hon'ble Commission may please to direct DisCom to charge tariff of Rs. 4.40/unit (including demand charges) from sick units/industries.
- (e) Pass such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.

For, SHAH ALLOYS LIMITED
[Signature]
Director

- PETITIONER

Declaration:

Declaration that subject matter of the petition has not been raised by the Petitioner before any other competent forum and that no other competent forum is currently seized of the matter or has passed any order in relation thereto.

Shah Alloys Limited

DATE: 9th April, 2018

PLACE: Ahmedabad

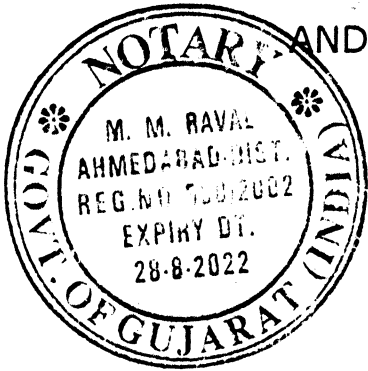
For, SHAH ALLOYS LIMITED
[Signature]
Director

Serial No. 1224/2018

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5. Gujarat Urja Vikas Nigam Limited

..... Respondents



AFFIDAVIT

I, Ashok Sharma son of Aatmaram Sharma aged about 62 years resident of 81/675, Pushpak Apartment, Naranpura, Ahmedabad-63 do hereby solemnly affirm and state as under:

1. I am the Director of the Shah Alloys Limited and I am well conversant with the facts of the case and able to depose to the present affidavit.
2. I have gone through the contents of the accompanying Petition and I say that the contents stated therein are based on the records of the Petitioner maintained in the normal course of business.

For, SHAH ALLOYS LIMITED

Ashok Sharma
Director

DEPONENT

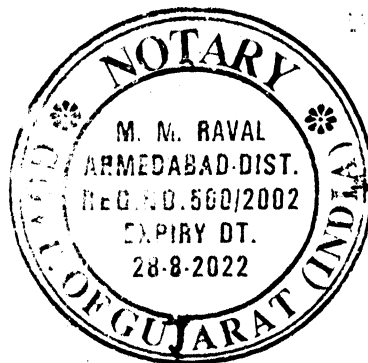
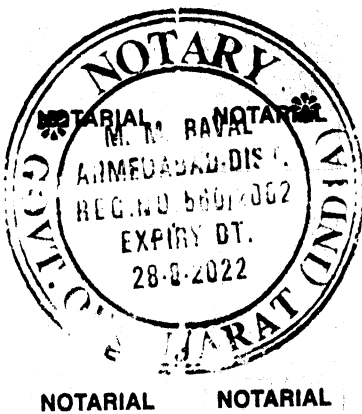
VERIFICATION:

I, the deponent above named do hereby verify that the contents of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Ahmedabad on this 9th day of April 2018. **For, SHAH ALLOYS LIMITED**

Ashok Sharma
Director

DEPONENT



Solely Affirmed by
M. M. Raval
REG. NO. 560/2002
EXPIRY DT. 28-8-2022
J. and
09/04/18
M. M. Raval
(M. M. Raval)
NOTARY
09/04/18