

Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2005

GUJARAT

India

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Act 6 of 2005

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Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2005(Regulation No. 6 of 2005)Last Updated 20th June, 2019No. 6 of 2005. - In exercise of the powers conferred under Section 181 of the Electricity Act, 2003 (Act 36 of 2003) and under Section 17 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act 24 of 2003), and all powers enabling it in that behalf, the Gujarat Electricity Regulatory Commission hereby makes the following Regulations, namely:-

Chapter I

General

1. Short Title, Extent and Commencement.

- These regulations may be called the Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2005. These Regulations extend to the whole of the State of Gujarat. These shall come into force on the date of their publication in the Gazette.

Chapter II

Definitions and Interpretations

2. Definitions and Interpretation.

- 2.1 In these Regulations, unless the context otherwise requires: i. "Acts" refers jointly to the Electricity Act, 2003 and the Gujarat Electricity Industry (Reorganisation and Regulation) Act,

2003.ii. "Commission" means the Gujarat Electricity Regulatory Commission.iii. "Electricity Act" means the Electricity Act, 2003 (Act 36 of 2003).iv. "Fees" means fees mentioned in the Schedule.v. "Fines and/or Charges" refers to fines and/or charges that the Commission is empowered to impose under the Acts.vi. "Fund" shall mean the State Electricity Regulatory Commission Fund constituted under Section 103 of the Electricity Act.vii. "Generating Company" shall have the meaning ascribed to it under the Electricity Act.viii. "Grid" means the high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants;ix. "State Act" means the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act 24 of 2003.x. "Licensees" mean licensees under the Acts.xi. "Proceedings" means and include proceedings of all nature that the Commission may hold in the discharge of its functions under the Acts.xii. "Regulations" mean the Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2004.xiii. "Schedule" refers to the schedule appended to these Regulations.xiv. "Secretary" means the Secretary of the Gujarat Electricity Regulatory Commission.Words and expressions used and not defined in the Regulations but defined in the Acts shall have the meanings assigned to them in the Acts. Expressions used herein but not specifically defined in the Regulations or in the Acts but defined under any law passed by a competent legislature and applicable to the electricity industry in the state shall have the meaning assigned to them in such law. Subject to the above, expressions used herein but not specifically defined in these Regulations or in the Acts or any law passed by a competent legislature shall have the meaning as is generally assigned in the electricity industry. The Bombay General Clauses Act, 1904, shall apply for the purpose of the present Regulations.

2.2 Interpretation. - In the interpretation of these Regulations, unless the context otherwise requires:i. Words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;ii. The terms "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" regardless of whether such terms are followed by such phrases or words of like import;iii. References herein to the "Regulation" shall be construed as a reference to these Regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force.iv. The headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations.v. References to the statutes, regulations or guidelines shall be construed as including all provisions consolidating, amending or replacing such statutes, regulations or guidelines, as the case may be, referred to

Chapter III

Fees

3. Fees on Applications and Petitions.

- i. Every application, petition and appeal made to the Commission shall be accompanied by such Fees as specified in the Schedule.[ii. Mode of payment of fees: - [Substituted by Notification No. 1 of 2015, dated 22.9.2015.](a)All fees, including late payment surcharge, if it is more than Rupees One lakh, shall be paid through electronic transfer directly in the Bank Account of GERC under intimation to the Commission. Details of the bank account of GERC shall be made available on the Commission's website.(b)All fees, including late payment surcharge, if it is less than Rupees One

lakh, the same may either be paid through electronic transfer or by 'Demand Draft' / 'payable at par' cheques / 'multi-city' cheques of Core Banking Solution (CBS) enabled banks, drawn in favour of the, "Gujarat Electricity Regulatory Commission", payable at Gandhinagar.(c)Persons making payment of fees in accordance with these regulations shall submit the details of remittance as per the Form-I to these regulations, within three days of making such payment.Form-I

Particulars	Details
1. Name of the Petitioner / Applicant	
2. Address of the Petitioner / Applicant	
3. Petition No., If any.	
4. Subject Matter	
5. Details of fee remitted(a) UTR / DD / Cheque No.(b) Date of remittance(c) Amount remitted(d) Bank name & Branch]	
iii. All Fees received by the Commission under these Regulations shall be credited to the Fund.iv. However, when the applicant/ petitioner is Government of Gujarat, no fee shall be levied.	

Chapter IV

Fines and/or Charges

4. Imposition of Fines and/or Charges.

- i. Subject to the provisions of the Acts, the Commission may, while deciding any matter or proceeding pending before the Commission or at any other time, initiate a proceeding for imposition of Fines and/or Charges against any person including generating companies and licensees for non-compliance or violation on their part of the provisions or requirements of the Act or Rules, Regulations or Codes framed under the Act or the directions or orders of the Commission made from time to time.ii. While determining the quantum or extent of the Fines and/or Charges to be imposed, the Commission shall consider, amongst other relevant things, the following:• The nature and extent of non-compliance or violation.• The wrongful gain or unfair advantage derived as a result of the non-compliance or violation.• the loss or degree of harassment caused to any person(s) as a result of the non-compliance or violation.• the repetitive nature of the non-compliance or violationiii. Before imposing any Fines and/or Charges, the Commission shall give an opportunity to the person upon whom such Fines and/or Charges are proposed to be imposed, to represent against the proposal to impose such Fines and/or Charges and also on the quantum or extent of the Fines and/or Charges proposed to be imposed.iv. The Commission shall issue a notice to the person specifying the nature of non-compliance or violation on the person's part and also all upon him to show cause within the time specified in the notice as to why Fines and/or Charges may not be imposed on him for such non-compliance or violation.v. Where in reply to the notice, the person admits non compliance or violation in writing, the Commission shall record it and may impose such Fines and/or Charges as it may consider fit in the circumstances of the case, subject to the provisions of the Act.vi. If the person to whom a notice has been issued under sub clause (iii) fails to show cause or denies non compliance with or violation of any provision of the Act or rules or

regulations or an order of the Commission, the Commission may enquire into the matter in such manner as it deems fit vii. The Commission may on being satisfied that no non-compliance or violation of any provision of Act, rules or regulations or an order of the Commission has been committed, discharge the notice.

5. Payment of Fines and Charges.

- i. The Fines and/or Charges as ordered by the Commission shall be paid within 30 days of the order of the Commission imposing the Fines or Charges or within such extended date as may be allowed by the Commission in such order.ii. The Fines and/or Charges shall be payable in the same manner as provided under sub clause (2) of clause 3 of these Regulations.iii. If the Fines and/or Charges ordered by the Commission are not paid within the prescribed time, they shall be recoverable as arrears of land revenue.

6. Fees Payable on license.

- i. The licensees as well as deemed licensee shall pay the annual fee for the Financial Year 2005-06 onwards as specified in the Schedule and shall not be required to pay any initial license fee.ii. In addition to the annual fee new entrants shall be required to pay initial license fee also.iii. All annual fees commencing from the Financial Year 2005-06 shall be paid by 15th April each year.iv. In case of late payment of annual fee, interest will be payable on the delayed amount at the rate of 1 % per month.

7. Utilisation of the funds.

- All amounts received as Fines and/or Charges under these Regulations shall be deposited in a separate bank account opened and maintained by the Commission therefor and shall not form part of the Fund unless the State Government so notifies under clause (c) of Section 103 of the Electricity Act.i. Unless the State Government through a notification under Section 103 of the Electricity Act specifies to the contrary, the Commission shall be entitled to utilise the amount deposited with the bank under sub-clause (i) above for the discharge of its functions in such manner as it deems fit.

8. Amendment of Schedule.

- The Commission shall be entitled to add, amend, alter or vary the amounts of Fees payable as provided in Schedule, by order, from time to time, as it deems fit.

9. Miscellaneous.

- Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.i. Nothing in these Regulations shall bar the Commission from adopting in conformity with provisions of the Act, a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in

view of the special circumstances of a matter or a class of matters and for reasons to be recorded in writing, deems it just or expedient for deciding such matter or class of matters.ii. Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.

Schedule

Sr. No.	Description	Fees
1	Initial licence fee upon grant of licence under Section 15 of the Electricity Act, 2003	Rs 5,00,000 (Rs. Five Lakhs)
2	Annual Licence Fees:	
(i) Transmission Licence	(i) Rs 1,000 (Rs. One thousand) per MW of transmission capacity contracts in force during the year or part thereof, subject to a minimum of Rs 1,00,000 (Rs. One Lakh) and maximum of Rs 25,00,000 (Rs. Twenty Five Lakhs)	
(ii) Distribution Licence	(ii) 0.03 per cent of revenues from the sale of electricity	
(iii) Trading Licence	(iii) 0.05 per cent of revenues from the sale of electricity, subject to minimum of Rs. 2,00,000/- (Rs. Two Lakhs)	

Provided that the annual licence fee shall be payable in advance, at the commencement of the financial year by all licensees, including licensees referred to in the first, second, third, fourth and fifth provisos to Section 14 of the Act: Provided further that in the case of a Transmission Licence, the annual licence fee shall be calculated based on the approved/ estimated aggregate quantum of transmission capacity contracts for the ensuing financial year: Provided also that in the case of a Distribution Licence, the annual licence fee shall be calculated based on the approved/ estimated revenue from the sale of electricity for the ensuing financial year: Provided also

that in the case of a Trading Licensee, the annual licence fee shall be calculated based on the approved / estimated revenue from the sale of electricity for the ensuing financial year, excluding revenues from sale of electricity to a Licensee in the State of Gujarat. Provided also that where the actual transmission capacity contracted or actual revenue from the sale of electricity, as the case may be, differs from the approved/estimated level used for the purpose of this Regulation, the excess or shortfall in licence fee, calculated based on the actual transmission capacity contracted or actual revenue, as the case may be, shall be adjusted against the annual licence fee for the following year.

3	Application seeking prior approval under Section 17 of the Electricity Act, 2003	0.01 per cent of the value of the transaction for which approval is sought, subject to a minimum of Rs 5,00,000 (Rs. Five lakhs) and maximum of Rs 20,00,000 (Rs. Twenty lakhs)
4	Application for amendment of licence under Section 18 of the Electricity Act, 2003 (i) by Licensee (ii) by any person other than a Licensee	(i) Rs 1,00,000 (Rs. One lakhs) (ii) Rs 50,000 (Rs. Fifty thousand)
5	Application for revocation of licence under subsection (2) of Section 19 of the Electricity Act, 2003 (i) by Licensee (ii) by any person other than a Licensee	(i) Rs 10,00,000 (Rs. Ten Lakhs) (ii) Rs 1,00,000 (Rs. One lakhs)
6	Application under Section 35 of the Electricity Act, 2003 for seeking use of intervening transmission facilities	Rs 50,000 (Rs. Fifty thousand)
7		

	Adjudication of dispute regarding extent of surplus capacity under the proviso to Section 35 of the Electricity Act, 2003	Rs 5,00,000 (Rs. Five lakhs)
8	Application for determination of rates, charges, terms and conditions under proviso to sub-section (1) of Section 36 of Electricity Act, 2003	Rs 5,00,000 (Rs. Five lakhs)
9	Adjudication of disputes regarding provision of non-discriminatory open access under sub-section (47) of Section 2 read with Section 40 of the Electricity Act, 2003 and regulations specified there under, not covered above: (i) referred by a Licensee or by a Generating Company (ii) referred by Person who has constructed and maintains and operates a Captive Generating Plant (iii) referred by consumer	(i) Rs 5,00,000 (Rs. Five lakhs) (ii) Rs 25,000 (Rs. Twenty five thousand) (iii) Rs 5,000 (Rs. Five thousand)
10	Adjudication of disputes regarding provision of non-discriminatory open access under sub-section (47) of Section 2 read with sub-section (2), (3) and (4) of Section 42 of the Electricity Act, 2003 and regulations specified there under: (i) referred by a Licensee or by a Generating Company, other than a Generating Company referred to in (ii) below (ii) referred by a Generating Company directly connected to the distribution system of a Distribution Licensee or by Person who has constructed, maintains and operates a Captive Generating Plant (iii) referred by consumer	(i) Rs 5,00,000 (Rs. Five lakh) (ii) Rs 25,000 (Rs. Twenty five thousand) (iii) Rs 5,000 (Rs. Five thousand)
11	Determination of tariff under the provisions of clause (a) of sub-section (1) of Section 62 of Electricity Act, 2003, to be paid by the applicant	

		Rs 10,00,000 (Rs. Ten lakhs) for capacity upto 100 MW. Rs 2,500 (Rs. Two thousand five hundred) for each additional MW capacity or part thereof
	(a) Conventional fuel based (coal, oil etc) Plant	Rs 5,000 (Rs. Five thousand) for the first 1 MW of capacity
	(b) Non-conventional & Renewable Sources of Energy, including co-generation	Rs 1,250 (Rs. One thousand two hundred fifty) for each additional MW or part thereof capacity
12	Annual / base year determination of tariff for transmission of electricity under the provisions of clause (b) of sub-section (1) of Section 62, to be paid by Licensee: Provided that such fees are payable whether such determination is upon application by the Licensee or by any other Person or suo moto determination by the Commission	Rs 15,00,000 (Rs. Fifteen lakhs)
13	Annual / base year determination of tariff for wheeling of electricity under the provisions of clause (c) of sub-section (1) of Section 62, to be paid by the Licensee: Provided that such fees are payable whether such determination is upon application by the Licensee or by any other Person or suo moto determination by the Commission	Rs 5,00,000 (Rs. Five lakhs)
14	Annual / base year determination of tariff for retail sale of electricity under the provisions of clause (d)	1 Ps / 20 units (Minimum Rs. 10,00,000 (Rs.

	of sub-section (1) of Section 62, to be paid by the Licensee: Provided that such fees are payable whether such determination is upon application by the Licensee or by any other Person or suo moto determination by the Commission	Ten lakhs) Maximum Rs. 50,00,000 (Rs. Fifty lakhs)
15	In case of Multi Year frame work Annual review of tariffs and performance of the Licensee during the control period as may be necessary, to be paid by the Licensee	Rs 5,00,000 (Rs. Five lakhs)
16	Petition/Application for approval of process or price for Power Purchase or procurement by distribution licensee	
	Conventional fuel based (coal, oil etc) Plant	25,000/MW (Minimum Rs. 2,00,000 (Rs. Two lakhs) Maximum Rs. 25,00,000 (Rs. Twenty five lakhs)
	Non-conventional & Renewable Sources of Energy	50 % of the above
17	Application for review of Tariff Order or power purchase agreement or power procurement rate by Licensee	10 per cent of the fees paid at the time of the original application for determination of tariff
18	Application for approval of the schedule of charges of a Distribution Licensee under Section 45 and Section 46 of the Act	Rs 1,00,000 (Rs. One lakh)
19	Application for entertaining and adjudicating disputes and differences between the Licensees and the utilities and review petition / application in this regard	To be fixed on case to case basis depending on extent of work.
20	Appeal against the decision of a Chief Electrical Inspector or an	Rs. 5,000 (Rs. Five thousand)

	Electrical Inspector	
21	Interlocutory Application	Rs. 20,000 (Rs. Twenty thousand)
22	Disputes arising under Section 67 sub section 4 and 5 of the Electricity Act, (opening of Streets, Railways etc)	Rs. 10,000 (Rs. Ten thousand)
23	Application for review or reconsideration of any orders of the Commission not covered elsewhere in these Regulations	Rs. 500 (Rs. Five hundred)
24	Any other petition / Application 1. By utility/licensee/deemed licensee/person granted exemption from license 2. By Institution/Organisation / Company (Limited, Private Limited, Partnership, Proprietorship) 3. Individual Consumer 4. Self Pleading Individual Consumer 5. Other matters not covered above	1. Rs. 10,000 (Rs. Ten thousand) 2. Rs. 5000 (Rs. Five thousand) 3. Rs. 1000 (Rs. One thousand) 4. Rs. 500 (Rs. Five hundred) 5. Rs. 10,000 (Rs. Ten thousand)
25	Request for Inspection of documents permitted to be inspected.	Rs. 500 (Rs. Five hundred) per day
26	Request for obtaining certified copies as may be permitted.	Rs. 5 (Rs. Five) per page