

**GUJARAT ELECTRICITY REGULATORY COMMISSION  
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE  
Polytechnic Compound, Barrack No.3, Ambawadi,  
Ahmedabad-380015**

**CASE NO.68/2019**

**Appellant:** M/s. A.I.A. Engineering Limited  
11,12,Sigma Corporation, B/h. HOF Living Show Room  
Sindhu Bhavan Road, Bodakdev, Ahmedabad-380059

**Represented by:** Shri D.S.Doshi, Authorized representative.  
Shri S.J.Patel, Manager(Legal)

**V/s.**

**Respondent:** Executive Engineer,  
Uttar Gujarat Vij Co. Limited,  
Division Office, Nr. TPL Rly.crossing  
Sabarmati. Ahmedabad-380005

**Represented by:** Shri Parag Desai, EE, UGVCL, R&C Office, Mehsana  
Shri Raj Sharma, EE, UGVCL, Sabarmati D.O.

**:::PROCEEDINGS:::**

- 1.0.** The Appellant had submitted representation aggrieving with the order No.2067 dated 29.06.2019 passed by the Consumer Grievances Redressal Forum, Uttar Gujarat Vij Company Limited, Mehsana, in case No.UG-01-005-2019-20. The representation was registered at this office as Case No.68/2019. The hearing of this case was kept on 08.08.2019.
- 2.0.** Appellant has represented the case as under.
- 2.1. Appellant was having two HT connections as under.

Sr. No.	HT conn. No.	Contracted Demand in KVA	Date of connection	Name
1	17048	3500	06.02.1993	Reclamation Welding Ltd.
2	18220	700	27.12.2003	AIA Engineering Ltd.

Pursuant to order passed by Hon'ble High Court of Gujarat in 2009, Reclamation Welding Limited (RWL) (HT service No.17048), having

manufacturing unit in the premises adjoining to one of AIA's unit at GVMM, Odhav (HT service No.18220) amalgamated with AIA Engineering Limited (AIA) and its name i.e. HT consumer No.17048 changed to AIA Engineering Limited on 19.06.2010. Post amalgamation, AIA has two units in adjoining premises with two HT services, bearing No.17048 and 18220, with respective contract demand of 3500 KVA and 700 KVA.

2.2. Appellant had represented the case before CGRF and CGRF has cancelled supplementary bills for the period prior to 28.10.2015, the date of first notice. Appellant has represented the case to get justice for the period from 28.10.2015 to July,2017.

2.3. Appellant has submitted facts/chronological events as under:

(1)

Sr. No.	Date	Description
1	28.10.2015	Respondent informed Appellant to merge both the connections as they were in adjoining premises. And failure to comply in the reasonable time would result in disconnection of one of the services.
2.	04.11.2015	In reply, Appellant referred GERC Regulations, but nowhere found such Regulation disallowing two separate connections in adjoining premises to same legal entity (when both released prior to 24.09.2015).
3.	09.12.2015	Respondent asked Appellant to refer GERC Supply Code,2015 condition No.4.28 for merger of both connections.
4.	16.12.2015	Appellant replied that nowhere it is mentioned that more than one connections released in the adjoining premises in accordance with rules and regulation prevailing before new Supply Code are to be merged.
5.	18.01.2016	Once again Respondent had told to submit separate legal entity for HT connection No.18220 and 17048, otherwise single bill will be issued considering deemed merger w.e.f.January,2016.
6.	22.02.2016	Though not bound to merge both units legally, but since insisted by Respondent, Appellant had applied vide letter dated 19.02.2016 for merger of

		both connections in Connection No.17048 keeping total contract demand as 4000 KVA, vide registration No.13846 dated 22.02.2016.
7.	23.02.2016	Corporate office of Respondent called TFR from Division Office. Even after lapse of considerable time no further communication to approve merger had been received by Appellant.
8.	26.04.2016	Appellant requested to consider revised total contract demand of 3500 KVA instead of 4000KVA.
9.	02.05.2016	Appellant had received bill for the month of 15 <sup>th</sup> March,2016 to 30 <sup>th</sup> April,2016 for considering deemed merger, which is paid by Appellant.
10.	20.05.2016	Respondent had served supplementary bill of Rs.5,09,971.22 for the period from 01.01.2016 to 15.03.2016 considering deemed merger of both connections, which is paid by Appellant under protest.
11.	27.07.2016	Respondent sent supplementary bill for recovery of charges with retrospective effect from October, 2013 to December,2015 amounting to Rs.64,13,695.07, which is paid under protest by Appellant with intent not to delay the merger of two services.
12.	02.08.2016	Appellant had requested to keep contract demand as 4000 KVA (3500 + 700-200KVA).
13.	09.08.2016	Appellant has requested to treat his letter dated 26.04.2016 (reducing contract demand from 4000 to 3500 KVA) as cancelled and to consider his total contract demand as 4000 KVA. As per verbal intimation from Respondent, Appellant had paid re-registration charges of Rs.2000/- for reduction of 200 KVA power supply.(3500 +700-200KVA) = 4000 KVA on 08.08.2016.
14.	Apr.2016 to July,2017.	In addition to these charges, Appellant was billed for deemed merger charges for the period April,2016 to July,2017 amounting to Rs.41,30,246/- in the monthly bills.
15.	09.06.2017	Respondent issued an estimate for merger of both connections against registration of Appellant dated 22.02.2016.
16.	02.08.2017	Connections physically merger w.e.f. 02.08.2017 with new contract demand of 4000 KVA in HT connection No.17048.

- (2) Respondent has recovered the amount from Appellant in violation of GERC rules/regulations.

Sr. No.	Bill Date	For the period		Amount (Rs.)	Remark
		From	To		
1	27.07.16	Oct.-13	Dec.-15	64,13,695.07	Considering deemed merger for the period prior to first notice for merger from Respondent.
2.	20.05.16	01.01.16	15.03.16	5,09,971.22	Deemed merger bill for separate connections.
3.	Monthly energy bill	Apr.-16	July-17	41,30,246.00	Deemed merger bill for separate connections
			Total	1,10,53,912.29	

- (3) Appellant had requested CGRF vide his representation to direct Respondent to withdraw supplementary bills raised considering deemed merged units for the period October,2013 to July,2017 and to refund total amount of Rs.1,10,53,912.29 along with interest as per Section 62(6) of the Electricity Act,2003.

- 2.4. (1) It is submitted that above bills are issued when both the connections were physically not merged. Appellant had applied for merger on 22.02.2016 and Respondent had issued estimate to Appellant on 09.06.2017. Thus, there was abnormal delay from Respondent in issuing an estimate for merger.
- (2) As per Standard procedures, Respondent has to convey written approval for merger, then Appellant has to change the electrical network to supply power from connection No.17048 to the area of connection No.18220 and then to submit Test Report of Government approved electrical contractor along with payment of standard fees.

On completion of above formalities, Respondent has to issue the letter for actual release of power to Appellant considering merger of both connections and then only Respondent can bill Appellant for demand and energy charges as single unit i.e. HT connection No.17048, considering merger of both units.

- (3) Appellant has gone through all the rules and regulations of GERC and also the Electricity Act,2003, but did not find any Clause allowing DISCOM to raise charges as a deemed merged connection and that too when delay/reason is not attributable to Appellant.
  - (4) Tariff schedule decided by GERC is for single point of supply and not for more than one point of supply. Therefore, actions taken by Respondent to bill Appellant considering deemed merge prior to 02.08.2017 (effective date of merger) is a breach of GERC's rules/regulations/orders.
- 2.5. Appellant has referred certain clauses of the Electricity Act,2003 as under.

- (1) Section 45 of the Electricity Act,2003 read as under:

*Section 45. (Power to recover charges):*

*(1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.*

*(2) The charges for electricity supplied by a distribution licensee shall be -*

*(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission.*

- (2) Tariff schedule decided by GERC is for single point of supply and not for more than one point of supply. As such Respondent is authorized to charge for single point of supply only. To recover charges considering deemed merger of two separate connections is violation of Section 45 of the Electricity Act,2003.

(3) Section 62(6) read as under:

*“If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.”*

In view of Section 62(6) stated above, Respondent has to pay interest equivalent to the bank rate to Appellant for the above referred supplementary bills.

(4) From the above it is clear that tariff schedule decided by GERC is for single point of supply and not for more than one point of supply and no rule of the Electricity Act,2003 or GERC allowing DISCOM to raise charges as a deemed merged connection and that too when delay/reason is not attributed to Appellant.

(5) If such merger is mandatory in case of adjoining premises and supplementary bills are to be raised mandatorily considering deemed merger, then DISCOM has no authority to discriminate amongst various consumers. So many residential and commercial connections are existing in the same name. For example, colonies of various Government departments. In such case DISCOM has neither merged them nor raised supplementary bills considering deemed merged.

2.6. Appellant has prayed to direct Respondent to withdraw supplementary bills raised considering deemed merged units for the period up to July,2017 and to refund total amount of Rs. 1,10,53,912.29 along with interest as per Section 62(6) of the Electricity Act, 2003.

**3.0.** Respondent has represented the case as under.

3.1. Respondent had issued notice to Appellant for merging of two HT connections i.e. 17048 and 18220 being same consumer name with adjoining premises.

3.2. Notice of merging was issued as per Clause 4.1.17 of Supply Code,2005 read as under:

“The Licensee cannot provide more than one connection/meter for one premises and consumers opting for second meter have to produce separate legal entity such as separate Income Tax number (PAN No.)/ Sales Tax number etc.”

3.3. Supply Code No. 4 of 2015, Clause No.4.28 read as under:

“The Distribution Licensee will not provide more than one connection for one premise or in adjoining/contiguous premises belonging to same owner if these are not separated by a public road or by private premise. The consumers opting for second connection will have to produce separate legal entity documents such as separate Income Tax No/ Sales Tax No., ration card and rent or lease agreement.”

3.4. It is stated that LPA No.1483 of 2013 and SCA No.464 of 2013 between M/s. Aarvee Denims & Exports Limited V/s UGVCL and two others, Hon’ble High Court of Gujarat had verdict as under, and disposed the appeal in favour of Respondent:

“The Respondent Electricity Company is a public utility company and if any decision taken by it manned by human error, the Accountant General is within his jurisdiction and duty to point out the same as ultimately it results in to loss of public exchequer and acting on the same, the Respondent Electricity Company and upon examining the issue, has correctly interpreted Regulation 4.1.17 and has taken decision in accordance with the Act, Regulations and Rules.”

3.5. Respondent is going to file petition before Hon’ble High Court against decision taken by CGRF, as in similar type of matter Hon’ble High Court has disposed the Petition in favour of Respondent Company.

**::: ORDER :::**

**4.0.** I have considered the contentions of the Appellant and the contentions of Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

4.1. The factual details summarized as under:

- (A) HT connection No.17048 in respect of M/s. Reclamation Welding Limited was released on 06.02.2013. Change of name from M/s. Reclamation Welding Limited to M/s. AIA Engineering Limited was approved by Respondent w.e.f. 19.06.2010.
- (B) HT connection No.18220 of Appellant was released on 27.12.2003. Reduction of contract demand 1000 KVA to 700 KVA was approved w.e.f. 01.10.2007.
- (C) Having same consumer name and adjoining premises of both HT connections, merger notice dated 28.10.2015 was issued to Appellant for merging of load of both HT connections taking reference of letter No. UGVCL/2113 dated 19.09.2013 and No.UGVCL/2240 dated 17.11.2015.
- (D) Vide letter No.UGVCL/8570 dated 09.12.2015 again notice for merger was issued to Appellant showing the provisions of GERC.
- (E) Vide letter No. UGVCL/249 dated 07.01.2016 guideline was given by Circle Office to merge both HT connections and to bill accordingly, hence merger bill was started w.e.f. January,2016.
- (F) Details of merger bills issued and amount recovered by Respondent are shown in Para No.2.3(2).
- (G) On acceptance of merger of both the HT connections, merger proposal was made on 18.03.2016 considering with (a) HT connection No.17048 of 3500 KVA and (b) HT connection No.18220 of 500 KVA (700KVA – 200KVA) = 4200 KVA in connection No.17048.
- (H) Revised application was submitted on 26.04.2016 with 3500 KVA contract demand, merging of area in HT connection No.17048 from HT connection No.18220 with surrendering 700 KVA contract demand of HT connection No.18220.
- (I) Appellant has given re-revised application dated 08.08.2016 for merger of both HT connections with total contract demand of 4000 KVA in HT connection No.17048 with merging of area of HT connection No.18220 and paid registration charges of

Rs.2000/- which was approved by Respondent vide letter No.UGVCL/1231 dated 09.06.2017.

- (J) Estimated amount of Rs.88500/- was paid by Appellant on 20.06.2017 and completed actual work for merger of both HT connection on 22.06.2017. After merger of both HT connections, power supply utilization is at Plot No.81, 82, 127, 128, 129, 129/A, 130, 130E and 130E/1, total 10022.52 sq.mtr.
- (K) Release order issued by Respondent on 28.06.2017. Appellant has submitted Test Report on 25.07.2017 and thereafter HT connection was physically released on 02.08.2017 with 4000 KVA contract demand.

4.2. CGRF, in its order, referring Ombudsman order in case No.93/2018 and order of Hon'ble APTEL in Appeal No.131 of 2014, has directed that in case of Appellant, merger notice was issued by Respondent on 28.10.2015 first time, hence for prior period i.e. October,2013 to 28.10.2015, supplementary bill is to be treated as cancelled and amount paid to be refunded without any interest to Appellant.

4.3. Appellant has taken stands as per Para No.2.5.

- (1) Respondent had prepared supplementary bill for the period October,2013 to December,2015 with merging of both HT connections for the amount of Rs.64,13,695.07 and issued on 27.07.2016 though both HT connections were not physically merged. Appellant had accepted merger and applied for merger of both HT connections on 22.02.2016, but estimate for merger of HT connections had been issued on 09.06.2017.

From the record it is seen that between the period 22.02.2016 to 09.06.2017, Appellant had revised the contract demand of merger of both HT connection and re-revised the contract demand of the same and finally merger application was registered on 08.08.2016. Looking to the date of registration i.e.08.08.2016, Respondent had taken time of eight months for issue of estimate. That period is abnormally high time period

and for which no reply had been filed by Respondent which is a serious concern.

- (2) Merger of HT connection No.17048 and 18220 at GVMM, Odhav in respect of Appellant, notice had been served on 28.10.2015 mentioning as under:

Both the HT connections i.e (1) HT connection No.17048 of 3500 KVA at Shed No.127, 128, 129, 129A, 130, 130E and 130E/1 and (2) HT connection No.18220 of 700 KVA at Shed No.81 and 82 are situated at adjoining premises. Therefore, Respondent had asked Appellant to produce separate legal entity such as separate Income Tax Number/Sale Tax number etc. Again, vide letter dated 09.12.2015 Respondent had clarified Regulation of Supply Code,2015, Clause No.4.28 and asked Appellant to produce separate legal entity of both HT connections. Later on, vide letter dated 18.01.2016 Respondent had intimated Appellant for merger bill w.e.f. January,2016 and thereafter consent to merge the area of HT connection No.18220 in the area of HT connection No.17048 with 4000 KVA contract demand was given by Appellant on 19.02.2016 and requested to provide ratio and specification of CTPT, being an Open Access consumer and vide letter dated 23.02.2016. Respondent had replied Appellant asking to produce fresh NOC from GPCB before release of actual load.

Supply Code,2015, Clause 4.28 states as under:

“4.28: The Distribution Licensee will not provide more than one connection for one premise or in adjoining/contiguous premises belonging to same owner if these are not separated by a public road or by private premise. The consumers opting for second connection will have to produce separate legal entity documents such as separate Income Tax No/ Sales Tax No., ration card and rent or lease agreement.”

Here it is required to read provision of Supply Code,2005, Clause No. 4.1.7, which is as under:

“The Distribution Licensee will not provide more than one connection/meter for one premises. The consumers opting for second meter will have to produce separate legal entity such as documents of separate Income Tax Number/Sales Tax Number ration card and rent or lease agreement.”

It is to note here that Supply Code,2005 is effective from 31.03.2005, while Supply Code,2015 is effective from 24.09.2015. Both HT connections, bearing No.17048 and 18220 were released prior to enforcement of Supply Code,2015. Appellant has not produced and justified separate legal entity for both HT connections as per intimation issued by Respondent after enforcement of Supply Code,2015 and accepted merger of load of both HT connections.

- (3) Appellant relied on Section 45(1) of Electricity Act,2003 and condition of tariff order published by GERC. “that tariff for power supply are applicable to only one point of supply.”

GERC is empowered to frame Supply Code as per power conferred under Section 50 of Electricity Act,2003. Similarly, as per Section 61 to 66, GERC is empowered to decide tariff for the licensee.

In present case, both the connections are having separate single point of supply but have not produced separate legal entity as asked by Respondent and are situated at adjoining premises. The case of Appellant is viewed that he is utilizing more than one HT connections instead of one HT connection in the premises, which he had occupied but not established a separate legal entity as defined as per Supply Code,2015 to run separate electric connections. In that case, merger of load of both HT connections insisted by Respondent and started merging HT bills w.e.f. January,2016, though load of both HT connections

not clubbed/merged in to one HT connection under acceptance of merger of load and process thereof at level of Respondent. Tariff is for one point of supply but issue of supplementary bill is for merged contracted demand as if one HT connection. Till release of physical connection, in acceptance of merger of both HT connections, supplementary bill raised by Respondent as per consent of Appellant for merger of both HT connections. Hence, the view taken by Appellant and argued for single point of supply as per tariff schedule is not accepted.

- 4.4. To deal with the issue of merger of two HT connections and issue of supplementary bill to Appellant, it is necessary to read the Section 2(15) and 2(49) of the Electricity Act,2003, along with Clause 4.28 of Supply Code,2015.

2(15): "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

2(49): "person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

The electricity connections were released earlier in the year 2007 and 2013 at relevant time Supply Code 2005, Notification No.11 of 2005 was in existence.

Respondent had issued supplementary bill for merger of two HT connections on the basis of provisions of Supply Code.

- 4.5. It is required to refer dated 07.08.2014 of Hon'ble APTEL in Appeal No.131 of 2014 in the matter of M/s. Vinney Enterprise V/s Kerala State Electricity Regulatory Commission & others. In the said case,

Hon'ble APTEL had observed in its order that arrears for difference in tariff could be recovered from the date of detection of the error.

In present case, Respondent had issued notice first time on 28.10.2015 for merger of HT connections of Appellant. Merger of HT connections has been accepted and consent given by Appellant on 22.02.2016, Respondent had started merging bills w.e.f. January, 2016. Respondent has physically released merger of load as per request of Appellant in HT connection No.17048 w.e.f. 02.08.2017.

In above circumstances, view taken by CGRF, cancelling of supplementary bill for the period October,2013 to 28.10.2015 seem to be correct and accepted.

- 4.6. It is viewed that in present representation, Respondent had not filed reply as per specified time after intimating him for registration of case. Even after hearing it was directed to file reply within seven days, but Respondent has not taken care for submission of para-wise reply in details as per representation of Appellant, which is viewed seriously. Respondent is directed to adhere to provisions of GERC (CGRF and Ombudsman Regulations) Notification No.2 of 2011.
- 4.7. I order accordingly.
- 4.8. No order as to costs.
- 4.9. With this order, representation/Application stands disposed of.

(Dilip Raval)  
Electricity Ombudsman  
Gujarat State

Ahmedabad.  
Date: 23.09.2019.