

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

CASE NO. 25/2016

Appellant: M/s. Apollo Gases
1st floor, Jivan Mansion, Lati Bazar,
Bhavnagar-364001.

Represented by: Shri Vikram Shah, Authorized representative.

V/s.

Respondent: Executive Engineer,
Paschim Gujarat Vij Company Ltd.,
City Division Office No.2, BHAVNAGAR

Represented by: Shri P.D.Parmar, DE(T-2), PGVCL, City Dn.No.2.

:::PROCEEDINGS:::

- 1.0.** The Appellant had submitted representation aggrieving with the order No.197 dated 11.01.2016, passed by the Consumer Grievances Redressal Forum, Paschim Gujarat Vij Company Limited, Bhavnagar, in complaint No.252/2015-16. The representation was registered at this office as Case No.25/2016. The hearing of this case was kept on 10.03.2016.
- 2.0.** The Appellant has represented the case as under.
 - 2.1.** Appellant is manufacturer of industrial oxygen, located at Survey No.180, Block No.142, at village Budhel, Dist. Bhavnagar.
 - 2.2.** Appellant is having a HT connection No. 23212 with contracted demand of 250 KVA under HTP-1 tariff.
 - 2.3.** It is submitted that oxygen manufacturing plants are passing through the worst phase since its inception since 20 years. Around of 100 plants in Bhavnagar district, more than 70 units have closed its operation. Appellant is also hit by the recession and closed the operation of its plant w.e.f. 17.07.2015, and not

restarted the plant since then. The consumption of power is due to use of power for water pump and office lighting.

- 2.4. Executive Engineer, PGVCL, City Division No.2 had issued an average bill for the month of October,2015 when meter was not working. Appellant has paid the amount of the bill under protest.
- 2.5. It is stated that as per the office note No.7365 dated 30.10.2015 of Respondent i.e. PGVCL, city Division No.2, the meter data could not be down loaded on 16.10.2015 at Division Office and it is found that meter display is off. It is also observed by the officer of Respondent that CTPT unit is faulty on 17.10.2015 and same was replaced on 28.10.2015.

As per MRI data, it was found that meter has stopped recording from 26.09.2015 and same has restarted recording from 28.10.2015 after replacing the defective CTPT unit.

- 2.6. Appellant has received an average bill of October,2015 for 32617 units consumption and 128 KVA demand considering the average consumption of last three months when plant was working for two months though the plant was not in operation at all during non-recording of data in meter.
- 2.7. Appellant has submitted following reasons in representation.
- (i) Forum has erred in the order by not considering the prayer of Appellant and not protected the interest of consumer as per the Section No. 2.21(i) of GERC Regulation Notification No.2 of 2011.
 - (ii) Appellant has pointed out the conclusion of point No.5 of Forum order and mentioned Clause No.6.1.11 and 6.1.8 of Supply Code Notification and stated that Forum has not taken in to account of Clause No. 6.1.8 for preparation of bill. Forum has not considered the working condition of plant and related evidence provided by Appellant and erred in order concluding that average bill issued by Respondent is in order.

- (iii) Meter has stopped registering data due to defect in CTPT unit on 26.09.2015 as concluded by Respondent from MRI data of the meter. The defect was noted by Respondent on 16.10.2015. The meter started registering data again from 28.10.2015 after replacing defective CTPT unit.

It is stated that GERC Supply Code and related matters Regulation Notification No.4 of 2016 is published on 24.09.2015 and grievance of subject matter will come under this Supply Code.

It is submitted that Clause No. 6.58 of Notification No.4 of 2016 also supports the arguments of Appellant in the present subject matter.

- (iv) Appellant is having a single plant industry with maximum demand of different months, very marginal difference when plant is in running condition. The maximum demand is near to 150KVA if plant is producing oxygen in normal situation. The maximum demand recorded during September,2015 was 23 KVA and it was 21 KVA and 27 KVA in the month of November and December, 2015 respectively. This shows that the plant was not in working condition since September,2015.

The defective CTPT was replaced on 28.10.2015 and in the checking sheet current recorded was 0.89 ampere which concludes that on the day of replacement of CTPT unit plant was not in running condition. During the period of defective CTPT unit i.e. 26.09.2015 to 28.10.2015, premises was visited by the Respondent on 17.10.2015 for inspection of meter and on 28.10.2015 for replacement of CTPT unit. The unit was not in operation at both the times.

- (v) Copy of VAT return with statement of stock clearly indicates nil production from 2nd Quarter of July,2015.

This authentic document is not considered by Forum while deciding the grievance.

- (vi) As the plant was not in operating condition, only security persons were performing their duty. In the absence of technical staff it is not possible to take daily reading and hence Appellant has not maintained G-7 card. Forum has not considered the MRI data analysis and VAT document while deciding the grievance.

2.8. Appellant has submitted rejoinder on 19.03.2016 and stated as under:

Regarding explanation of the effect of low power factor and high demand for August,2015 even though the unit was closed since 17th July,2015, Appellant has submitted following points:

- (i) As per MRI data on 17th July, the KVA demand at 08.00 hours was 45.604 while the same was 6.8766 at 08.30 hour. So the plant of Appellant has stopped production at 08.00 hours of 17.07.2015. The highest demand recorded on 17th July after 08.30 hours was 11.9264 at 13.00 hours after that from 18th July, demand has never crossed even that figure.
- (ii) The meter of PGVCL is preset to auto reset at 00.00 hours of 16th of each month. The highest demand recorded during the period 16.07.2015 at 00.00 hours to 17.07.2015 at 08.00 hours was 54.9346 with MF-3, the maximum demand recorded during the billing month of August,2015 was 165. It is very clear that the demand recorded in August,2015 is only due to demand recorded on 16th and 17th July before unit was closed on 17.07.2015 at 08.00 hours, means the factory was not restarted after 17th July. The question period where the average bill is issued by the Respondent is from 26.09.2015 to 28.10.2015 when the unit was not in operation.

(iii) Appellant has submitted the formula $(KVA)^2 = (KW)^2 + (KVAR)^2$, and stated that when the plant was not in operation, the capacitors connected with plant were not in the circuit. So KVAR is more as the inductive power of the transformer is not compensated by the capacitors. Hence the overall value of KVA is increased.

2.9. Appellant has prayed that the bill for October,2015 may be revised considering the non-operation of plant and in line with consumption recorded during September,2015 when also the plant was not running.

3.0. Respondent has represented the case as under:

3.1. Appellant is a consumer of Respondent bearing consumer No.HT-23212 and having contracted load of 250 KVA. Unit of Appellant is for an Oxygen plant.

3.2. At the time of monthly billing meter data could not be down loaded at Division Office on 16.10.2015. Hence Junior Engineer, Meter Testing Laboratory had visited the location on 17.10.2015 for taking meter reading parameter. It was found that meter display was off and no PTs were found coming out from CTPT unit. CTPT unit found defective.

3.3. On 28.10.2015 the said installation was checked by Deputy Engineer, with JE (Lab) and data was filled in checking sheet No. BZ 12536.

It is mentioned in checking sheet as under:

It was found that meter display was off hence meter reading parameter could not be taken. Voltage and Ampere at TTB are measured and found that no any PT supply phase coming out from CTPT unit to TTB of meter hence TVM has got stopped.

Voltage and Ampere at LT side were measured and found OK. Power was utilized by Appellant. Defective CTPT unit was replaced on same day. MRI data would be binding to the

consumer. Appellant is liable to pay the supplementary bill as per MRI data for energy loss during the 'STOP' position of meter.

- 3.4. From MRI data it is observed that from 26.09.2015, 21:13:00 TVM has got "STOP" as no PTs were found coming out from CTPT unit to TVM. Hence meter has not recorded energy till 28.10.2015, 14:13:00 i.e. replacement of defective CTPT unit.
- 3.5. From the MRI data it is concluded that total duration of 31 days 17 hours HT TVM stopped to record/register electric energy and degree of inaccuracy in its measurement is unknown.
- 3.6. As the energy was not registered and recorded by HT TVM meter for the period of 31 days 17 hours, supplementary bill was issued to appellant as per Clause No. 6.1.11 of GERC Supply Code Notification No. 11 of 2005.

Energy bill for the month of October,2015 has been issued to Appellant on the basis of average consumption for the past three month billing cycle i.e. July-August-September,2015.

Month	KWH	KVAH	KVArh	MD	PEAK	NIGHT
July,2015	85137	85242	3093	180	28413	28722
Aug.2015	7134	11031	5967	165	2028	2712
Sept.2015	2358	6210	5676	26	684	651
Total	94629	102483	14736	371	31125	32085
Per day average	1028.58	1113.95	160.17	4.03	338.32	348.75
Total units of 31 days and 17 hours.	32617	35321	5079	128	10727	11058

As per GERC Supply Code Notification No. 04 of 2015, billing in case of defective/stuck/stop /burnt meter as per Clause No. 6.58 supplementary bill for the month of October,2015 has been issued to Appellant.

Energy bill issued for the month of November,2015 was not an average bill but calculated as per actual meter consumption from date of replacement of CTPT Unit i.e. 28.10.2015 to 16.11.2015.

- 3.7. It is stated that power is not utilized for only oxygen manufacturing process but it is used for 2 No. of three phase

submersible motors each of 20 HP, utilize for farming purpose. On 28.10.2015, load test was carried out.

- 3.8. Appellant has not submitted any representation about closing/non-working of plant to the office of Respondent. Appellant has also not maintained G-7 Card for recording daily meter reading. Appellant has not informed to Respondent regarding non-working of meter and intentionally utilized power with non-working meter.
- 3.9. Energy bill issued for the month of October,2015 is as per norms and amount is recoverable.

:::ORDER:::

- 4.0. I have considered the contentions of the Appellant and the Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.
- 4.1. Appellant is a HT consumer of Respondent having contracted load of 250 KVA. Appellant is having Oxygen plant. Initially for monthly billing by Respondent, meter data could not be down loaded on 16.10.2015. Therefore, Respondent had visited the site of Appellant on 17.10.2015 when meter display was found off. On further investigation it was found that PTs were not coming out from CTPT unit and CTPT unit was concluded as defective by Respondent.
- 4.2. It is admitted by both parties that defective CTPT unit was replaced on 28.10.2015 by Respondent as per checking sheet No. BZ12536. Respondent has filled up the checking sheet as per noting mentioned in Para 3.2.
- 4.3. Meter data was retrieved on the same day i.e. on 28.10.2015. From meter MRI data it is revealed that from 26.09.2015 - 21:13:00 meter has got 'STOP' recording due to non-availability of PTs coming out from CTPT unit to meter. Meter has not recorded energy till replacement of CTPT unit on 28.10.2015 - 14:13:00. Hence meter has not recorded energy for total duration

of 31 days 17 hours. Meter ceased (i.e. stop) recording electric energy and degree of inaccuracy in its measurement is unknown. The dispute is not in relation with stop meter, but it is related with average energy assessment made by the Respondent on the basis of previous three billing cycle as per Supply Code Notification No. 11 of 2005, Clause 6.1.11 and 6.1.8.

- 4.4. GERC Supply Code related matters Regulation No. 11 of 2005, Clause No. 6.1.8 and 6.1.11 are as under:

Clause No. 6.1.8:

In the event of the meter being tested by the Distribution Licensee, either on his own or upon a request by a consumer and being found to be beyond the limits of accuracy as prescribed in the Rules in force, the amount of the bill for a period of three months immediately preceding the date of inspection of the meter in case of domestic and agricultural services and for a period of six months immediately preceding the date of inspection of the meter for all other categories of services, shall be estimated in accordance with the result of the test. Any evidence provided by consumer about conditions of working and /or occupancy of the concerned premises during the said period(s), which might have had a bearing on energy consumption, may be considered.

Clause 6.1.11.

Where the meter ceases to register consumption (stop meter) or is otherwise defective (and the degree of inaccuracy in its measurement is unknown), the amount of the bill shall be estimated as specified in the clause 6.1.8 above, on the basis of average consumption. The average consumption shall be calculated based on the figures for the preceding two or three billing cycles, when the meter was correctly/properly registering.

Amendment of Clause No.6.1.11: In case sufficient data are not available then average consumption during two/three billing cycles of succeeding period may be considered.

The new Electricity Supply Code and related Matters Regulations came in to force from 24.09.2015.

The relevant para of Supply Code is as under:

6.58. In case of defective/stuck/stopped/burnt meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found/reported defective. In case sufficient data are not available then average consumption during two/three billing cycles of succeeding period may be considered. These charges shall be leviable for a maximum period of three billing cycles only.

Provided that any evidence provided by consumer about conditions of working and/or occupancy of the concerned premises during the said period(s), which might have had a bearing on energy consumption, may be considered by the Licensee.

6.59. In case, the Maximum Demand Indicator (MDI) of the meter at the consumer's installation is found to be faulty or not recording at all (unless tampered), the demand charges shall be calculated based on Maximum Demand during corresponding month/billing cycle of previous year, when the meter was functional and recording correctly. In case, the recorded MDI of corresponding month/billing cycle of past year is also not available, the average maximum demand as available for lesser period shall be considered.

The energy consumption for the month of August,2015, and September,2015 was recorded less compared to July,2015, which proves the arguments of appellant that his plant was not working from 17.07.2015.

- 4.5. Appellant objected the average energy bill stating that his plant was closed since 17.07.2015. He has pointed out the energy parameters recorded by MRI and submitted that on 17.07.2015 KVA demand at 08.00 hours was 45.604, while same was 6.8766 at 08.30 hours and thereafter his plant has never recorded such KVA demand.
- 4.6. It is also admitted fact that Appellant has not informed the Respondent regarding closing/non-working of his plant, which was noted by CGRF in their order also. Same way G-7 card has also not been maintained daily by Appellant and replied that

there were no technical staff performing duty in closed plant. Only security staff was there, hence on above ground, daily reading was not recorded in G-7 Card.

- 4.7. Appellant has produced VAT Returns with statement of stock and said that there were NIL production from 2nd Quarter of July,2013. CGRF has ignored the above facts while deciding the subject matter of grievance.
- 4.8. From MRI data analysis, energy consumption of Appellant was reduced from 17th July,2015. Respondent is having billing cycle commence from 16th of month to 15th of next month. The energy consumption of Appellant is as under:

Month	Kwh	KVAH	KVArh
July,2015	85137	85242	3093
August,2015	7134	11031	5967
September,2015	2358	6210	5676
October,2015	33394	37412	6999

It is confirmed from the MRI data analysis that meter has not recorded energy from 26.09.2015 to 28.10.2015 till replacement of defective CTPT unit.

Looking to the above, the energy consumption for the month of July-2015, August-2015 and Septemeber-2015 seems to be correct.

If the arguments of Appellant of non-working of plant after 17.07.2015 is taken into consideration, then energy consumption recorded for the month of August,2015 – 7134 Kwh, September,2015 – 2358 Kwh of Appellant seems to be correct. Appellant has produced VAT returns statement in reference to NIL production of oxygen in his plant.

The above consumption recorded on parts of connected load of submersible water pumps as stated by Respondent. From the documents submitted, VAT returns and MRI data analysis it is justified that from 17.07.2015 plant of Appellant was not working.

4.9. As per new Electricity Supply Code Regulations, Notification No.04 of 2015, Clause No. 6.58 and 6.59 as mentioned in Para No.4.4 and analysis of meter retrieved data through MRI and production record submitted by Appellant, Respondent is directed to revise the average supplementary bill considering two previous billing cycles i.e. August,2015 and September,2015 instead of three billing cycles.

Respondent should accordingly revise the account of Appellant. As Appellant has paid energy bill with protest, Respondent is directed to refund the balance amount, if any, without any interest, within 30 days of receipt of this order.

Compliance to be reported by the Respondent within a period of two months.

4.10. I order accordingly.

4.11. No order as to costs.

4.12. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 07.04.2016.