

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

CASE NO. 128/2017

Appellant: M/s. Sadbhav Ceramics
Shree Ram Nivas-248, Near Adarsh Society
B/h. Sardar Baug, Sanada Road, Morbi-363641.

Represented by: Shri Vikrambhai Shah, Authorized representative.

V/s.

Respondent: Executive Engineer,
Paschim Gujarat Vij Company Limited
Division Office, Wankaner-363621.

Represented by: Shri B.D.Zalavadia, EE, PGVCL, Wankaner.

:::PROCEEDINGS:::

- 1.0.** The Appellant had submitted representation aggrieving with the order No.5526 dated 27.06.2107 in case No. 46/Q.01/2017-18, and review order No. 9353 dated 02.11.2017, in case No.57/Q.02/2017-18, passed by the Consumer Grievances Redressal Forum, Paschim Gujarat Vij Company Limited, Rajkot, The representation was registered at this office as Case No.128/2017. The hearing was kept on 11.01.2018. The next hearing was kept on 08.02.2018.
- 2.0.** Appellant has represented the case as under.
 - 2.1.** Appellant is having HT connection in the name of M/s. Sadbhav Ceramics, having contracted demand of 450 KVA, bearing consumer No.26364, under HTP-I tariff, in the jurisdiction of Wankaner Division Office of PGVCL. The connection was released on 15.01.2008.

2.2. It is submitted that Appellant has observed ambiguities and difference in the HT bill issued by Respondent.

(1) The provision of tariff order for HT connection is narrated as under:

Concession for use of electricity during night hours:

“For the consumer eligible for using supply at any time during 24 hours, entire consumption shall be billed at the energy charges specified above. However, the energy consumed during night hours of 10.00 PM to 06.00 AM next morning as is in excess of one third of the total energy consumed during the month, shall be eligible for concession at the rate of 85 paise per unit”.

CGRF had passed an order on 27.06.2017 and accordingly Respondent had implemented directives given by Forum vide letter dated 25.07.2017.

2.3. Respondent had filed review appeal before CGRF which was heard by CGRF and passed review order on 02.11.2017, but Appellant is not aggrieved by the order passed by CGRF. Respondent has not implemented CGRF order in toto.

2.4. It is submitted that as per knowledge of Appellant, night hours rebate granted to all connections for more than 500 KVA demand as well as up to 500 KVA demand also since date of release i.e. 2002 onwards after installation of static meter as per tariff order passed by GERC.

2.5. Appellant has mentioned the name of HT consumers as under for which night hours rebate was granted since date of release of connection.

1. M/s. Devkinandan Paper Mill Pvt.Ltd.,
2. M/s. Deepson Ceramic.
3. M/s. Ceramic Paradise.
4. M/s. Vrunavan Ceramic Ltd.,
5. M/s. Jaysun Ceramics.

- 2.6. It is submitted that from the above contents Respondent has issued bill by bios mind and granted advantage to few consumers in spite of clear guidelines given in the tariff order. Appellant has requested to look in to the entire case and take requisite action as per rules and regulations.
- 2.7. On 11.01.2018, Appellant has submitted rejoinder as under:
- (1) Respondent, EE, PGVCL, Wankaner has not provided copy of reply filed before CGRF as well as before Ombudsman.
 - (2) Copy of review appeal filed by Respondent is not received by Appellant. The review appeal filed by Respondent before CGRF is after the time period of 30 days.
 - (3) The order dated 27.06.2017 passed by CGRF clearly states that “રીવાઈઝ કરવાપાત્ર યોગ્ય એવા તમામ માસના બિલોને નાઈટ ટેરીફ યુનિટના ધોરણેની ગણતરી હેઠળ” દિન ૧૦ માં અરજદારશ્રીના લેખિત સમંતિપત્ર હેઠળ રીવાઈઝ કરી તે મુજબનો લેખિત પત્ર અરજદારશ્રીને અત્રેના ફોરમની જાણકારી હેઠળ પાઠવી અને તે મુજબનો અહેવાલ ફોરમ સમક્ષ રજૂ કરવા સબબનો પીજીવીસીએલ પક્ષકારને આદેશ આપવા બાબતનો સદર કેસમાં ફોરમ કમિટી તરફથી નિષ્કર્ષ થયેલ છે.
Accordingly, Respondent has to give revised bill for all the months where night tariff rebate difference is not granted.
 - (4) Respondent has sent the calculation of revised bill for January,2008 to December,2008 but same is not credited to account of Appellant. In the order passed in the review appeal CGRF has clearly stated that review application is absolutely not essential.
 - (5) After the order passed by CGRF in review appeal, and after lapse of one month, Respondent has informed Appellant vide letter dated 29.11.2017 that Appellant will not get benefit of night rebate, which is a gross disobedience.
 - (6) It is submitted that as per tariff orders of GERC, the night rebate benefit should be given to the consumer who provides

time switch on polyphaser meter. DISCOMs are using trivector meters since many years. The meters are having time of day recording facility and as a result peak hours, non-peak hours and night hours consumption are available and bills are raised as per tariff order for all HT consumers. There is no HT consumer who has provided time-switch on polyphaser meter as the same is not required at all. DISCOM has also not declared the required specification for time switch. Thus, denial of night rebate is violation of natural justice.

- (7) It is submitted that there were number of connections those were getting night rebate from the year 2006 without providing any time-switch. The list of consumers is submitted as per Para No. 2.5.

2.8. Vide letter dated 08.02.2018 Appellant has submitted as under:

- (1) Trivector meter has been installed by Respondent having facility of night supply reading and time of use. Therefore, there is no need to install time-switch.
- (2) Respondent is having night supply reading during the said period but night rebate is not granted.
- (3) Respondent has not clarified regarding night rebate granted to the various consumers.
- (4) Appellant has requested to direct Respondent to implement the directives given by Forum and to grant night rebate from the date of release of connection.

3.0. Respondent has represented the case as under.

3.1. It is submitted that Division office, Wankaner under PGVCL was came into the existence since 09.11.2011. The HT connection of Appellant M/s. Sadbhav Ceramics, consumer No. 26364 was released for 450 KVA contracted demand on 15.01.2008 by Morbi Division Office.

3.2. Appellant had first time applied on 05.11.2016 for getting night hours rebate. As per directives of Circle Office, vide letter No. SEMRB/DRC/R-2/HT night tariff/281 dated 18.01.2017 night rebate difference was calculated for the period February,2009 to March,2016 and proposal was submitted vide letter No.792 dated 14.02.2017 and thereafter night hours rebate refund was credited in the month of bill of February,2017. Aggrieved by this, Appellant had filed prayer before CGRF, which was decided by CGRF and issued order on 27.06.2017. Aggrieved by this order, Respondent had filed review appeal on 06.09.2017, which was decided by CGRF vide order No. 9353 dated 02.11.2017.

3.3. The observations made by CGRF in the order dated 02.11.2017 as per Para No. 3.2 of the order, are reproduced hereunder:

“ઉપરોક્ત નિષ્કર્ષમાં સ્પષ્ટ જણાવેલ છે કે ટાઈમ સ્વિચ લગાવ્યા પછીના તમામ બિલોમાં નાઈટ રિબેટ રિફંડ આપવાપાત્ર થાય છે. એટલે આ કેસમાં ગ્રાહક દ્વારા ટાઈમ સ્વિચ લગાવ્યા પછીના સમયગાળાથી જ નાઈટ રિબેટ રિફંડ આપવું એવો સ્પષ્ટ હુકમ છે. તદ્દપરાંત પીજીવીસીએલ દ્વારા રીવ્યુ અરજી સાથે રજૂ કરેલ તમામ ટેરીફ વર્ષ ૨૦૧૨ સુધીના ઓર્ડરમાં જણાવેલ છે કે *“For the consumer eligible for using supply at any time during 24 hours, entire consumption shall be billed at the energy charges specified above. However, the energy consumed during night hours of 10.00 PM to 06.00 AM next morning (recorded by a polyphaser meter operated through time-switch) as is in excess of one third of the total energy consumed during the month, shall be eligible for concession at the rate of 75 paise per unit. The polyphaser meter and time switch shall be procured and installed by the consumer at his cost and sealed by the distribution licensee.”*

ત્યારબાદ વર્ષ ૨૦૧૩ થી ટેરીફ ઓર્ડરમાં નીચે મુજબ સુધારો લાગુ કરી અને જોગવાઈ કરાયેલ છે, તે મુજબ..

Concession for use of electricity during night hours:

“For the consumer eligible for using supply at any time during 24 hours, entire consumption shall be billed at the energy charges specified above. However, the energy consumed during night hours of 10.00 PM to 06.00 AM next morning as is in excess of one third of the total energy consumed during the month, shall be eligible for concession at the rate of 75 paise per unit”.

એટલે કે વર્ષ ૨૦૧૩ થી ટેરીફ ઓર્ડર મુજબ દરેક એચ.ટી. ગ્રાહકોને ટાઈમ સ્વિચ લગાડ્યા સિવાય નાઈટ રિબેટ રીફંડ આપવું જરૂરી છે. આ બાબતને અનુલક્ષીને ઉપરોક્ત હુકમ કરેલ હતો. તેમ છતાં પીજીવીસીએલ દ્વારા સંદંતર બીનજરૂરી આ રીવ્યુ અરજી કરવામાં આવેલ છે, તેમ ફોરમ કમિટિને સ્પષ્ટ જણાયેલ છે”.

- 3.4. It is submitted that Appellant had neither informed Respondent regarding installation of polyphase meter or time switch nor for sealing of meter.
- 3.5. As per Forum order dated 02.11.2017, night hours refund benefit is eligible to appellant from the tariff for the year 2013, effective date 01.04.2013. Vide letter No. 792 dated 14.02.2017, Respondent had credited amount in the month of February,2017 against the night hours rebate.
- 3.6. Respondent has submitted the copy of tariff order schedule for the year 2007, effective date 01.04.2007,

ટેરીફ શિડ્યુલ વર્ષ ૨૦૦૭ ની અસર તારીખ ૦૧.૦૪.૨૦૦૭.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૦૯ ની અસર તારીખ ૦૧.૦૨.૨૦૦૯.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૦ ની અસર તારીખ ૦૧.૦૪.૨૦૧૦.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૧ ની અસર તારીખ ૦૧.૦૯.૨૦૧૧.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૨ ની અસર તારીખ ૦૧.૦૬.૨૦૧૨.

આ ટેરીફ ઓર્ડર્સમાં નાઈટ રિબેટ રીફંડ અંગેના પેરાનો અભ્યાસ કરતાં....

CONCESSION FOR USE OF ELECTRICITY DURING NIGHT HOURS:

“For the consumer eligible for using supply at any time during 24 hours, entire consumption shall be billed at the energy charges specified above. However, the energy consumed during night hours of 10.00 PM to 06.00 AM next morning (recorded by polyphaser meter operated through time-switch) as is in excess of one third of the total energy consumed during the month, shall be eligible for concession at the rate of 75 paise per unit. The polyphaser meter and time switch shall be procured and installed by the consumer at his cost and sealed by the distribution licensee.”

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૩ થી ૨૦૧૬ ની નકલો આ સાથે સામેલ રાખેલ છે.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૩ ની અસર તારીખ ૦૧.૦૪.૨૦૧૩.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૪ ની અસર તારીખ ૦૧.૦૫.૨૦૧૪.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૫ ની અસર તારીખ ૦૧.૦૪.૨૦૧૫.

ટેરીફ શિડ્યુલ વર્ષ ૨૦૧૬ ની અસર તારીખ ૦૧.૦૪.૨૦૧૬.

આ ટેરીફ ઓર્ડરમાં નાઈટ રિબેટ રીફંડ અંગેના પેરાનો અભ્યાસ કરતાં...

CONCESSION FOR USE OF ELECTRICITY DURING NIGHT HOURS.

“For the consumer eligible for using supply at any time during 24 hours, entire consumption shall be billed at the energy charges specified above. However, the energy consumed during night hours of 10.00 PM to 06.00 AM next morning as is in excess of one third of the total energy consumed during the month, shall be eligible for concession at the rate of 75 paise per unit”.

From the above, looking to the tariff order from the year 2007 to 2016, it seems that Appellant has not installed poly-phase meter or time switch and Respondent has not made sealing on the meter, in that case night hours rebate is eligible from 01.04.2013.

- 3.7. It is submitted that as per the tariff orders passed by GERC, benefit of night hours rebate is not granted to appellant from the date of release of connection i.e. 15.01.2008.
- 3.8. Vide letter No.622 dated 30.01.2018, Respondent has submitted as under:
 - (1) Review representation was made after getting necessary guidelines from the authorities and thereby delay was occurred in filing review appeal before CGRF. CGRF has considered the review representation.
 - (2) CGRF has considered night tariff benefit under HTP-I tariff and directed to revise the bill. Thereafter, in the review order it was directed to revise the bill after installation of time-switch by Appellant.
 - (3) As per the order of CGRF, Respondent has calculated night rebate amount of Rs. 11910/-, but it was not credited to account of Appellant as review appeal has been accepted by CGRF.
 - (4) The grievance regarding demand of night hours rebate from August,2008 is made after long duration i.e. after eight years.

As per Clause No. 2.30(III) of Notification No.2 of 2011, present grievance cannot be allowed.

- (5) As per tariff order published by GERC from 2007 to 2012, night hours rebate are given based on the installation of time-switch or polyphaser meter by Appellant. As per the tariff order from April,2013 onwards, night hours rebate is allowable to Appellant.
- (6) As per guidelines issued by Circle Office vide letter No. SEMRB/DRC/R2/HT-night tariff/281 dated 18.01.2017 the benefit of night hours rebate has been passed to the consumer w.e.f. February,2009.
- (7) The night hours rebate was given to the consumers as mentioned in Para No. 2.5. Details of the same are as under:

અનુ. નં.	ગ્રાહક નં.	ગ્રાહકનું નામ.	લેખિત અરજીની તારીખ	નાઈટ રીબેટ લાભ આપ્યા તારીખ	વીજ જોડાણ તારીખ.
૧.	૨૬૦૩૫ (મોરબી ડીવીઝન)	શ્રી દેવકીનંદન પેપર મીલ પ્રા. લિ.	નાઈટ રીબેટ માટે ગ્રાહકની અરજી આવેલ નથી પરંતુ ૫૦૦કે.વી. કનેક્શન હોવાથી આપવામાં આવે છે	૨૫.૦૬.૨૦૦૨	૨૫.૦૬.૨૦૦૨
૨.	૨૬૦૬૧ (મોરબી ડીવીઝન)	દીપસન સિરામિક	ગ્રાહકની અરજી તા.૧૭.૦૨.૦૫.	૧૭.૦૨.૨૦૦૫	૨૩.૦૬.૨૦૦૩
૩.	૨૬૦૧૮ (મોરબી ડીવીઝન)	સિરામિક પેરાડાઈજ	ગ્રાહકની અરજી તા.૧૧.૦૨.૦૫	૧૧.૦૨.૨૦૦૫	૦૨.૦૭.૨૦૦૧
૪.	૨૬૦૦૫ (મોરબી ડીવીઝન)	વૃંદાવન સિરામિક લી.	આ ગ્રાહક નંબરમાં આ નામનું વીજ જોડાણ આવેલ નથી.	--	--
૫.	૨૫૭૬૧ (વાંકાનેર ડીવીઝન)	જયસુન સિરામિક	ગ્રાહકની અરજી આવેલ છે કે કેમ તે અંગેનો રેકોર્ડ કનેક્શન ખૂબ જુનું હોવાથી મળી શકેલ નથી.	૩૧.૦૮.૨૦૦૭	૩૧.૦૮.૨૦૦૭

3.9. Vide letter No. 704 dated 02.02.2018, Respondent has submitted as under:

- (1) Appellant had submitted an application dated 05.11.2016 asking night rebate first time. Respondent had credited the amount of night rebate in the month of February,2017 for the period of February,2009 to March,2016 and it was intimated vide letter No.792 dated 14.02.2017.
- (2) As per CGRF order night rebate is eligible from the date of installation of time-switch or poly-phase meter.
- (3) The connection of appellant was released on 15.01.2008 by installing digital meter having facility of meter reading with time zone. But Appellant has not submitted the application asking night rebate till the application dated 05.11.2016. Therefore, appellant is not eligible for getting night hours rebate from the date of release of connection.

::: 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, having HTP-I tariff. The connection of Appellant was released by Respondent on 15.01.2008. As per Respondent, static meter was installed since release of HT connection.

4.2. As per Para 3.6, various tariff orders from 2007 to 2012 speak about the provisions for concession for use of electricity during night hours. The last sentence of provisions “The polyphaser meter and time switch shall be procured and installed by the consumer at his cost and sealed by the distribution licensee”.

In this case polyphaser meter has been already installed by Respondent since the date of release of connection. There is no need to install time switch by Appellant.

- 4.3. As per tariff schedule of tariff order for the year from 2013 to 2016, provisions for concession for use of electricity during night hours, clearly speak to give night consumption rebate to eligible consumers.

The part of installation of poly-phase meter or time switch by Appellant is omitted in the said paragraphs which means that night consumption use rebate is directly applicable while preparing bills.

- 4.4. In this case, Appellant is asking night consumption rebate from the date of release of connection i.e. 15.01.2008. Appellant has filed his application for getting night rebate first time on 05.11.2016.

- 4.5. As per Para 3.8(6), Respondent has granted night rebate to Appellant from June,2009, vide letter dated 01.12.2016, based on the directives issued by Superintending Engineer, Morbi, vide letter No. 281 dated 18.01.2017.

- 4.6. Respondent has argued that present grievance is filed after around eight years and as per Clause 2.30 (iii) of Notification No.2 of 2011, said grievance cannot be allowed.

CGRF has not decided the grievance on ground of Clause 2.30(iii) of Notification No.2 of 2011.

- 4.7. The Appellant is claiming for refund of night hours consumption recovered by Respondent from the date of release of connection i.e. 15.01.2008 to June,2009. Appellant had filed application before Respondent first time on 05.11.2016.

- 4.8. Vide order dated 27.06.2017 CGRF has observed and noted that revised billing should be calculated for all billing cycles after installation of poly-phase meter or time switch by Appellant for night hours rebate. In the review order dated 02.11.2017 CGRF has directed to revise the billing for all billing cycles after installation of

poly-phase meter or time switch by Appellant. So it can be seen that the present grievance is a part of implementation of CGRF order.

- 4.9. In the present case, Respondent has installed static meter having facilities of recording all time zone parameters since release of connection. Respondent has not granted night hours rebate to Appellant and for that Appellant had not made complaint to Respondent prior to 05.11.2016. As per tariff order for the year 2009 to 2012, Appellant who is consumer has to provide polyphaser meter or time switch and sealed by DISCOM for getting night hours rebate. Thereafter from tariff order 2013 onwards, as per Clause 13.10 it is mandatory to give night hours rebate to eligible consumer as per provisions.
- 4.10. From the above observations CGRF has decided to give night hours rebate to the Appellant from installation of poly-phase meter and time switch. Respondent has already installed poly-phase meter at the time of release of said connection. Therefore, concession for use of electricity during night hours can be given to the Appellant as per the tariff order. Respondent is directed to grant night hours rebate from the date of release of connection on the basis of available consumption data and implement the CGRF order in right spirit. Compliance may be reported within 30 days.
- 4.11. I order accordingly.
- 4.12. No order as to costs.
- 4.13. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 16.02.2018.