

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

**CASE NO. 125/2015
(UNDER REVIEW)**

Appellant: M/s. Super Quarry Works
At village: Tulsigam. Post: Udalpur
Ta. Desar. Dist. Vadodara

Represented by: Shri V.R.Kapoor, Authorized representative.

V/s.

Respondent: Deputy Engineer,
Madhya Gujarat Vij Company Ltd.,
Desar (O&M) Sub-Division Office,
66KV Savli Sub-station Compound,
Desar-391770. Dist.Vadodara.

Represented by: Shri S.A.Kadia, DE, MGVCL, Desar S/dn.

:::PROCEEDINGS:::

- 1.0.** The Appellant had submitted review representation aggrieving with the Ombudsman order No.537 dated 30.11.2015, passed by in case No.125/2015. The review representation was considered as per Clause No.3.45 of GERC Notification No.2 of 2011. The hearing of this review representation was kept on 21.01.2016.
- 2.0.** The Appellant has represented the case as under.
 - 2.1.** It is submitted that 45 days time period was requested for conducting hearing before Ombudsman, but it was not granted and order was passed without hearing the appellant.
 - 2.2.** Appellant has stated that he has not submitted any undertaking to Respondent for getting power supply from rural feeder.
 - 2.3.** Respondent has released industrial category connection to N.A. land of Appellant at relevant point of time from rural feeder. Since the day of release of connection Appellant has used electric supply from rural feeder for 6 to 8 hours per day.

- 2.4. Appellant has reiterated the subject matter of order issued in case No.821/2004 by GERC, and order issued by Electrical Inspector Nadiad vide Appeal No.1 of 2010-11.
Appellant has referred Para No.11 of order dated 23.02.2006 in GERC Petition No.821/2004 and stated that industrial tariff is being charged instead of HP based tariff as connection is released from agricultural feeder.
- 2.5. During hearing Appellant has submitted copy of judgment given by Ombudsman in case No.27/2007, issued vide letter dated 10.10.2007, and stated that grievance of present case is similar to this case.
- 2.6. It is submitted that in spite of agriculture HP based tariff billing Respondent has charged industrial tariff billing to the Appellant.
- 2.7. Appellant has referred the GERC guidelines issued vide letter No.2066 dated 30.12.2010 and No.1378 dated 24.06.2014 and stated to give 24 hours power supply. Respondent has wrongly considered the case of Appellant for giving 24 hours power supply and prepared estimate for full cost.
- 3.0.** Respondent has represented the case as under.
- 3.1. Appellant had applied for 6 KW industrial purpose connection on 30.11.2007. The connection was released on 20.02.2008 from 11KV Varasara Agriculture feeder. Appellant was well aware regarding 8 hours power supply from agriculture feeder. Appellant has not made any dispute up till 29.07.2013 regarding issue of 6 to 8 hours power supply as well as industrial tariff billing.
- 3.2. On 29.07.2013 Appellant has applied for shifting of connection from agriculture feeder to JGY feeder for getting 24 hours power supply and given consent for payment of estimate.

- 3.3. It is stated that earlier there was a practice for getting consent of Applicant that he will get six to eight hours power supply where no nearby 24 hours power supply feeder i.e. JGY/Industrial is available to the place of demand. In the present case consent should have been given by Appellant for getting industrial power supply from agriculture feeder. As original case file was not traceable the consent given by Appellant is not available.
- 3.4. While releasing the connection of Appellant no nearby HT line was there for Narmada Vasahat. The line was erected in December, 2010 for giving power supply to Narmada vasahat from Vejpur JGY feeder. The issue raised by Appellant for giving power supply from nearby line of Narmada vasahat is not justified.
- 3.5. The order referred by Appellant in GERC Petition No.821/2004 is not relevant to the present grievance of the Appellant.
- 3.6. As per Para No. 2.7 it is stated that the case of Appellant is regarding shifting of power from agriculture feeder to continuous feeder as per his request hence letter mentioned by Appellant in Para No.2.7 is not applicable. As Appellant has given consent for making necessary estimated charges for getting 24 hours power supply, he has to pay full amount of estimated amount.

:::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. Review in Ombudsman order dated 30.11.2005 is taken into consideration as per Clause 3.45 of Notification No.2 of 2011 and as per submission narrated in Para No.2.0 of Appellant.

- 4.2. The appellant raised the ground that while passing the original order dated 30.11.2015 in case no.125/2015, he was not given an opportunity for hearing and order passed ex-parte is concerned the appellant was informed for hearing of the case on dated 20.10.2015, dated 05.11.2015 and dated 24.11.2015 for necessary notice were issued vide letter dated 12.10.2015, dated 23.10.2015 and 04.11.2015 respectively. However, the appellant was remained absence on the date of above hearings. The appellant had pray for 45 days time for third date of hearing which was rejected by the ombudsman on the following ground:

As per GERC regulation No.2 of 2011

“The Ombudsman shall pass an order as early as possible but in any case, within 60 days from the date of receipt of the Representation. Where there is delay in disposal of a Representation within the said period, the Ombudsman shall record reasons of such delay.”

As the appellant himself delayed the proceeding of the case no.125/2015 and not remained present during hearing as stated above the order passed by the ombudsman with consideration of regulation of 2 of 2011. It is further observed that in present review representation the appellant has raised various grounds for review of order dated 30.11.2015 which are strictly not fulfilling the criteria of order. However, the various grounds raised in the review representation as well as the main case were considered by the ombudsman to pass the reasoned order with consideration of contentions raised by both parties as well as provisions of relevant regulation.

The details analysis and reasoning on subject matter on present case deal here under.

- 4.3. Appellant submitted that it receives only 6 to 8 hours power supply from rural feeder where he is connected. It is undisputed between the parties that appellant applied for connection on

dated 30.11.2007 and connection was released on dated 20.02.2008 by the respondent, MGVCL. However, Appellant raised the issue of receiving 6 to 8 hours power supply instead of 24 hours power supply by him from the feeder where it is connected. There is no evidence on records states that prior to letter dated 29.07.2013 the appellant raised the issue regarding non receipt of 24 hours power supply. Though, he has demanded the power supply from 24 hours on regular basis. The respondent contended that during the release of connection the appellant was informed that it would receive the power supply from Agriculture Feeder for 6 to 8 hours only and no continuous power supply available to him for 24 hours. The appellant has admitted and accepted the same and undertake the same which is disputed by appellant.

- 4.4. It is also observed that the appellant has neither raised issue regarding receipt of less power supply prior to year 2013 nor raised the issue regarding excess recovery of minimum charges bills by the respondent. Moreover, the appellant paid the amount of bills raised by respondent from time to time and paid the same to respondent without any objection on it. It proves beyond doubt that appellant admitted the release of its connection on Agriculture feeder and agree to pay the bill amount as per the LTP Tariff determined and decided by GERC from time to time. The appellant has once waived its right to receive the power supply from the industrial feeder or express feeder or JGY feeder or any other feeders which supply continuous power supply to the consumers. At the time of release of connection signing of agreement with licensee and also thereafter for more than 5 years the appellant is not eligible to claim the power supply received by it for 6 to 8 hours and liable to pay minimum charges for 8 hours only is not acceptable and same is rejected .

- 4.5. The appellant relied on the judgment dated 23.02.2006 of GERC in petition no. 821/2004 is concerned the facts of same case is different and distinct from the present case of appellant. In the said case the connection was HT connection and seasonal consumer governed by seasonal HT tariff while in the present case the appellant is a consumer who receive power supply for LT industrial purpose and utilizing the same for more than 5 years and not disputed. The GERC in aforesaid case directed GEB to ensure 24 hours power supply for the petitioner of petition no. 821/2004 and similar situated consumer. Here, Appellant is neither seasonal HTP consumer nor there is any records submitted by him proves that he has demanded 24 hours power supply which was not complied by the respondent licensee. It is also observed that connection was released of appellant only after order dated 23.02.2006 by the respondent. However, at time of release of connection of appellant it had not disputed the same not demanded the claim that appellant liable to pay minimum charge based on the power supply received by it. Thus, It proves that the appellant has waived its right to received the power supply for 24 hours from the feeder and pay the minimum charge bills accordingly.
- 4.6. The appellant demanded for 24 hours power supply first time on dated 29.07.2013 in response to above, Respondent has replied that appellant shall required to pay the shifting charges of Rs.270433.94 as per letter No.4660 dated 14.10.2015. The said charge claimed by respondent is in accordance with provisions of Electricity Supply code regulation as well as recovery of expenditure regulation which are stipulated below:
Notification No. 11 of 2005, Clause No.4.2.1:
“After the position for the Service Line is decided, the Distribution Licensee shall furnish an estimate of cost to be borne by the applicant in accordance with relevant Regulations. The licensee

shall inform the applicant of other conditions including payment of security deposit and charges for providing electric line or electric plant, to be complied with. The applicant shall be required to deposit the amount of the estimate with the Distribution Licensee before the service line is laid. After the applicant pays the estimates and meets the other necessary conditions, the work shall be carried out. The deposit amount shall be suitably adjusted based on the final cost of the providing connection.”

and

Notification No. 9 of 2005, Clause No.8.2(F): CHARGES FOR MISCELLANEOUS WORK :

“The charges payable in advance for any work which the supplier may undertake for the consumer and which is not included in the foregoing schedule shall be at the actual cost of labour and materials plus 15% to cover overhead charges. Estimates will be submitted when necessary. The charges payable in advance for any work which the supplier may undertake on behalf of the consumer as an agency work, shall be the actual cost of labour and materials plus 15% to cover overhead charges. The estimates will be submitted accordingly.”

From the aforesaid provisions of regulation it is clear that the claim for shifting for charges proposed by respondent is in accordance with provisions of GERC regulation.

It is observed that though the charges demanded by respondent on dated 14.10.2015, the appellant has not paid the same. Thus, it is in violation of aforesaid provisions and connection not shifted from existing feeder from where the appellant receiving the power supply to the new feeder from where 24 power supply is available to the appellant.

In absence of payment of necessary charges for shifting of connections from one feeder to another feeder, the denial by the respondent seems to be legal and valid and the demand of appellant is not legal and not valid and hence it is rejected.

- 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:19.02.2016