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

CASE NO. 03/2019

Appellant : M/s. Jalaram Rice Mill
Malawada Chokdi, Vastana Road
Limbasi-387520. Ta.Matar. Dist. Kheda.

Represented by: Shri D.S. Doshi, Authorized Representative
Shri Rahul M. Bharvad, Partner

V/s.

Respondent: Executive Engineer
Madhya Gujarat Vij Company Ltd.,
Division Office, Mehmadabad. Dist.- Kheda.

Represented by: Shri S.A. Solanki, E.E., D/o., Mehmadabad
Shri N.B. Dhanaliya, D.E., S/dn., Limbasi

:::**PROCEEDINGS**:::

1.0. The Appellant had submitted representation aggrieving with the order No. 475 dated 20.12.2018 passed by the Consumer Grievances Redressal Forum, Madhya Gujarat Vij Company Limited, Vadodara, in case No. MG-III-10-2018-19. The representation was registered at this office as Case No.03/2019. The hearing of this case was kept on 14.02.2019.

2.0. The case is represented by Appellant as under.

2.1. Appellant is having LT Connection of 92KW bearing Consumer No. 50801/02220/7, under LTMD tariff, at Malawada chowki, Vastana Road, Limbasi Under Limbasi Sub-division. Actual demand of Appellant is recorded more than 100 KW several times and Respondent has charged penal rate as applicable for exceeding contract demand under LTMD tariff. Thereafter, on the basis of audit, Respondent has billed for the occasions of exceeding actual demand under HT tariff which is illegal and contrary to applicable Regulations/Acts.

2.2. Appellant accepted that in the period of November-2014 to March-2017 demand is exceeded than actual demand.

The supplementary bill of Rs.3,27,244.8 was claimed vide letter dated 01.07.2017 by Respondent for LT connection for the period November,2014 to March,2015 by applying HT tariff on the ground of exceeding contract demand beyond 100KW. Maximum demand recorded during the period from November-2014 to March-2015 which is shown as under.

Sr. No.	Billing Month	Contracted Demand (KW)	Actual Demand (KW)
1	November-2014	92	115
2	December-2014	92	114
3	January-2015	92	120
4	February-2015	92	120
5	March-2015	92	121

2.3. Appellant had represented before Respondent and requested to withdraw the supplementary bill raised by Respondent for which Appellant had not received any reply from Respondent quoting exact GERC rules/regulations/orders under which HT Tariff is applicable to case of Appellant.

2.4. Appellant had again received a letter dated 25.10.2017 from Respondent issuing supplementary bill of Rs.4,65,500.07 for exceeding actual demand of LT connection beyond 100KW for the period from April,2015 to March,2017 which is shown as under.

Sr. No.	Billing Month	Contracted Demand (KW)	Actual Demand (KW)
1	April-2015	92	108
2	January-2016	92	112
3	February-2016	92	110
4	March-2016	92	107
5	April-2016	92	104
6	November-2016	92	110
7	December-2016	92	109
8	January-2017	92	113
9	February-2017	92	113
10	March-2017	92	111

2.5. Respondent has clarified its own Circular No. 75 dated 01.04.2016 according to which till four occasions in particular financial year of exceeding contract demand by more than 5%, billing is not to be done as per HT Tariff. In accordance with that supplementary bills are revised to Rs.96,579.83 for the month of February,2017 and March, 2017, vide letter dated 03.07.2018.

2.6. (1) Appellant has mentioned Tariff order of GERC relating to LTMD category and HT category and submitted that above provisions of tariff order, the consumer having contracted demand of 100KW and if demand exceeds beyond contracted demand, then as per provisions of tariff order, excess demand would be charged as per LTMD tariff. Tariff order of GERC or any provision of Supply Code entitles Respondent to bill under HT tariff for the LT consumer, having agreement executed. Respondent has failed to indicate the provisions of Supply Code for billing under HT category.

(2) In reference to Clause No. 3.5.1 of Supply Code,2005, related with re-classification of consumer, it is crystal clear that as per GERC's tariff order, HT tariff is applicable for supply of electricity at 3300V and above. Respondent cannot apply HT tariff to consumers having supply of electricity at 440V i.e. less than 3300V.
Respondent has not taken any action as per Clause 3.5.1 of Supply Code,2015 for change in category of supply from LT to HT under re-classification.

(3) GERC Supply Code 2005, Clause No.3.1.2 having same provisions with Clause No. 3.2 of Supply Code,2015.

As per above clause when contract demand is less than 100 KW, LT connection is applicable and HT connection is for contract demand exceeding 100KVA/KW and not actual demand more than 100KW. Appellant cannot be billed under HT category.
Supply Code,2015 is effective from 24.09.2015 and as such it is not applicable to first supplementary bill issued to Appellant.

(4) Appellant has also referred GERC Supply Code Notification No. 2 of 2011, Clause No.2.21 & 2.26, which read as under.

<u>Clause No. 2.21:</u>
Forum(s) while dealing with the Complaints/Grievances shall follow the principles of natural justice, including, *inter alia*, the following:

i. it shall protect the interest of Consumers;

ii. it shall inform Consumers of their rights;

iii. it shall facilitate and expedite the redressal of Complaints/Grievances;

iv. it shall ensure that Consumers can also have a remedy in the event of failure or delay on the part of the Distribution Licensee in redressing their Complaints/Grievances.

Clause No. 2.26:
All decisions of the Forum shall strictly be in accordance with the provisions of the Act, Rules and Regulations framed thereunder and orders and directions issued by the Commission from time to time.

(5) As per Section 45 of Electricity Act,2003, Distribution company is only authorized to change consumers for supply of electricity at the rate determined by Regulatory Commission.

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.

Through tariff order of GERC has determined rate applicable for the consumers of LTMD category along with applicable charges for crossing demand beyond contract demand. Therefore, Appellant cannot be billed by Respondent under HT category.

2.7. Appellant has referred the Ombudsman Case No. 67/2018. In which direction given that bill under HT Category cannot be issued to LTMD Category consumer. Appellant has also referred letter dated 11.01.2007, in which GUVNL has notified that any Circular which is contrary to GERC's Rules and Regulations, should be ignored.

2.8. It is stated that in response to representation filed, Appellants were called upon by Division Office, Mahemdabad on 15.09.2017 to discuss the issues. Respondent had converted representation into complaint before CRC, Division Office, vide letter dated 05.10.2017 and ordered that supplementary bill is issued in accordance with technical Circular No.49A. In this matter, Appellant has submitted that as per Clause

8.3.4 of Supply Code, 2015, Respondent cannot allow to apply HT tariff to LTMD consumers for excess recording of demand beyond contract demand.

Appellant is not aware of Technical Circular No.49A. Being regulated entity, Respondent cannot act contrary to rules and regulations/tariff order of GERC.

2.9. Respondent issued letter dt.21.08.2017 to inform Appellant that during FY 2016-2017 actual demand exceeded contract demand by more than 5% and therefore Appellant should regularize contract demand within 30 days otherwise suo-moto proceeding would be started.

2.10. After Receipt of letter dated 21.08.2017 of Respondent, Appellant had never exceeded contracted demand since July-2017. As Mentioned, since July-2017 Appellant's actual demand is within contracted demand and followed guidelines of GERC's Regulations. Thereafter, vide letter dt.30.10.2017, Respondent has issued Suo moto estimate of Rs.8,36,503/- for contracted demand of 125 KVA for opting HT connection.

2.11. Aggrieved by CGRF order, it is stated as under:

CGRF failed to appreciate below stated aspects and has not offered any comment for it.

(1) As per GERC tariff order HT tariff is applicable only for supply of electricity at HT and EHT. For supply at low and medium voltage, LT tariff is applicable.

(2) As per GERC Supply Code,2015, installations having contracted demand (not actual demand) up to 100KVA/KW are considered as LT connection.

(3) Hon'ble Ombudsman in its order in case No.67/2018 has clearly mentioned that bill under HT category cannot be issued to LTMD category.

(4) Clause No.2.26 of Notification No.02 of 2011 of GERC is reproduced hereunder:

> "All decisions of the Forum shall strictly be in accordance with the provisions of the Act, Rules and Regulations framed thereunder and orders and directions issued by the Commission from time to time."

Thus CGRF is mandated to follow the order of Ombudsman which it has intentionally not followed.

2.12. Appellant prayed as under:

1) To direct Respondent to withdraw supplementary bill of Rs. 96,579.83 issued as per tariff due to exceeding actual demand beyond 100KW and instruct to apply LTMD Tariff as per the rate decided by GERC.

2) To direct Respondent to cancel its estimate letter for HT connection dt.30.10.2017.

3.0. The case is represented by Respondent as under.

3.1. The Appellant is having 92 KW LTMD category connection in the name of M/s. Jalaram Rice Mill, C/o. Shri Ashokbhai Ramabhai Bharwad, bearing consumer No.50801/02220/7. Supplementary bill of Rs.96,579.83 for the month of February,2017 and March,2017 was issued to Appellant. Under Suo moto proceedings estimate of Rs.8,35,253/- was issued to Appellant vide letter No.5178 dated 30.10.2017 as per Clause 4.95 of Supply Code,2015, considering HT connection as per recorded maximum demand.

3.2. Earlier, Appellant had raised objection for the supplementary bill issued by Respondent for the amount of Rs. 4,65,500.07 vide letter No.4011 dated 25.10.2017 and Rs. 8,35,253/- vide letter No.5178 dated 30.10.2017 against HT estimate, and approached before CGRF. After hearing, an order was passed by CGRF vide letter No.475 dated 20.12.2018 stating that "the bills amount to Rs.96,579.83 for the month of February,2017 and March,2017 issued by the Respondent is in order. The action initiated to issue HT estimate for regularization of excess load vide letter dated 30.10.2017 is in order as per Clause 4.95 of Supply Code.2015."

3.3. Respondent has submitted parawise reply as under:

(a) Respondent had issued notices vide several letters during the period 30.03.15 to 12.09.17 to Appellant for regularizing his contracted demand, but Appellant not turned up for the same and therefore Respondent had issued HT bills and also initiated action of Suo moto process for converting LTMD category to HT category by issuing estimate of Rs.8,35,253/- vide letter No.5178 dated 30.10.2017.

(b) Respondent had issued supplementary bill of Rs. 4,65,500.07 to Appellant vide letter No.4011 dated 25.10.2017 for excess M.D. as per Technical Circular No.49A and 75 for the month of April,2015, January,2016, February,2016, March,2016, November,2016, Dec.,2016, Jan.,2017, Feb.,2017 and March,2017.

(c) Appellant had raised objection against supplementary bills and Suo Moto estimate and had filed grievance and hence Respondent had called Appellant at CRC at Circle Office, Nadiad on 23.08.2018.

(d) As per new guidelines received from Corporate Office, vide letter No.716 dated 03.07.2018, CRC, Nadiad Circle Office had directed to cancel the audit bill of Rs.3,27,244.89 and to revise the supplementary bill to only Rs.96,579.83 (out of Rs.4,65,500.07), which is required to be recovered from Appellant. Accordingly, bill was issued to Appellant vide letter No.4011 dated 25.10.2017 by Respondent.

(e) Appellant has also raised objection against CRC order and applied before CGRF. CGRF, in its order issued vide No.475 dated 20.12.2018 intimated that "the bills amounting to Rs.96,579.83 for the month of February,2017 and March,2017 issued by Respondent DE, Limbasi sub-division to Shri Ashokbhai Ramabhai Bharvad, Jalaram Rice Mill is in order. The action initiated to issue HT estimate for regularization of

excess load vide letter dated 30.10.2017 is in order as per Clause 4.95 of Supply Code,2015."

(f) Against CGRF order Appellant has approached Ombudsman vide application dated 02.01.2019.

(g) Appellant vide application dated 15/21.11.2017 had asked for extension of time limit for the payment of HT estimate issued under Suo Moto proceedings within 120 days, which shows that Appellant was aware regarding issue of excess drawl of M.D. and its seriousness. Competent authority had approved the time period for payment of estimate vide letter No. 05 dated 01.01.18, but Appellant has not paid estimated amount till date.

(h) Respondent has stated that action taken by him is as regulatory norms and estimate issued under HT category connection is in accordance with provisions.

:: 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. As per Para 3.1, Appellant is LTMD category consumer, bearing consumer No. 050801/02220/7 of Respondent under Limbasi sub-division of Mahemdabad Division, having contracted demand of 92 KW. The use of electricity is for Rice Mill. Respondent has issued supplementary bills (1) on 01.07.2017 for the amount of Rs.3,27,244.89 for the period of F.Y. 2014-15 as per the instruction passed by Internal Audit Team of Respondent and (2) on 25.10.2017 for an amount of Rs.4,65,500.07 for the period of April,2015 to March,2017.

4.2. (a) It is on record that Respondent had issued notice to Appellant vide letter No.2448 dated 30.03.2015 for excess recording of more than 20% of demand against contracted demand of 92KW of electric connection of Appellant during the period of November,2015 to March,2015, and directed to regularize the contracted demand.

Again Respondent had reminded Appellant for the same vide letter No.3115 dated 27.04.2015.

(b) Vide letter No.1431 dated 13.04.2016, Respondent had issued notice to Appellant mentioning to regularize the contracted demand as Appellant has recorded maximum demand more than 17% of contracted demand during the period of January,2016 to March,2016. Appellant was informed to apply for HT connection.

Again vide letter dated 28.06.2016, Appellant was informed to control the contract demand or to apply for HT connection as maximum demand for the month of April,2016 was recorded 104KW against contracted demand of 92KW i.e. 12% excess.

Again vide letter dated 29.11.2016, Appellant was informed to control contracted demand as maximum demand was recorded 110KW against contracted demand of 92KW i.e. 19.56% excess for the month of November,2016.

Appellant was informed to apply for HT connection or to control contracted demand in reference to Clause No. 8.3.4 and Clause No.3.1.2 of Supply Code,2015.

As per Clause 3.5.1 of Supply Code,2015, consent for billing under HT category in case of excess recording of demands was asked by Respondent and it was directed to control contracted demand up to 110KW, otherwise electric connection would be disconnected.

(c) As maximum demand was recorded more than 20% of contracted demand for the period of January,2017 to March,2017, a notice was issued to Appellant vide letter No.1778 dated 26.04.2017.

In all the above notices issued by Respondent for longer period, Appellant had not taken positive steps and had not controlled the contracted demand under LT connection.

It is an established fact that during the period as mentioned in Para No.2.2 and 2.4, Appellant had recorded maximum demand which

exceeded limit of 10% of contracted demand and for that Respondent had intimated Appellant several times for the same.

4.3. Internal Audit Team of Respondent has proposed recovery of differential amount of LT tariff to HT tariff on the basis of Technical Circular No. 49A dated 28.07.2014 and Technical Circular No.75 dated 01.04.2016 as maximum demand recorded had exceeded the contracted demand for more than 10% for five times during the Financial Year 2014-15 i.e. for the period November,2014 to March,2015 and four times during the Financial Year 2015-16 i.e. for the period of April,2015 and January,2016 to March,2016. Similarly, for the Financial Year 2016-17 maximum demand was exceeded more than 10% of contracted demand five times for the period November,2016 to March,2017.

Therefore, it is required to refer the relevant provisions of Supply Code,2015 as well as guidelines mentioned in above Technical Circulars of Respondent.

4.4. It is necessary to refer the Clause 4.95 of Supply Code,2015 as well as guidelines conveyed in Circular No.75 dated 01.04.2016 issued by Respondent.

Clause 4.95:

In case of HT, EHT and Demand Based LT connections, if the maximum demand was recorded to be in excess of contract demand by 5% or more for at least four times during last financial year, the licensee shall issue a 30-day notice to the consumer for submitting an application form for enhancement of load. If there is no response from the consumer by the end of the notice period, the licensee shall start the procedure for enhancing the consumer's contract demand to the average of four recordings of maximum demand shown by the consumer's MDI meter in the last financial year. In such case, the consumer shall be liable to pay all applicable charges as per provisions of this Code for regularization of the enhanced demand. The enhanced demand will be considered as revised contract demand on receipt of such charges and all provisions of agreement shall be applicable to such consumers for revised contract demand. In case of non-Demand Based LT connections, review of Contracted Load/ Sanctioned Load shall be carried out once in a financial year and if it is found that connected load on such type of connection is 25% or more than the Contracted Load/ Sanctioned Load in case of Residential Consumers and 10% or more than the Contracted Load/ Sanctioned Load in case of other categories of consumers, the licensee shall issue a 60-day notice to the consumer for submitting an application form for enhancement of load. If there is no response from the consumer by the end of the notice period, the licensee shall start the procedure for enhancing the consumer's Contracted Load/ Sanctioned Load to the load found at the time of inspection. In such case, the consumer shall be liable to pay all applicable charges as per provisions of this Code for regularization of the enhanced load. The enhanced load will be considered as revised Contracted Load/ Sanctioned Load on receipt of such charges and all

provisions of agreement shall be applicable to such consumers for revised Contracted Load/ Sanctioned Load.

Circular No.75 dated 01.04.216 issued by Respondent with subject of review of contract demand in case of demand based consumers, referring previous Circular No. (1) MGVCL/49A dated 28.07.2014 and (2) MGVCL/67 dated 03.06.2015. The guidelines provided vide Circular No.75 by Respondent in view of Supply Code,2015 which becomes effective from 24.09.2015. Respondent has referred Clause 4.95, Clause 3.2 and Clause 8.3(3) of Supply Code while issuing the guidelines vide Circular No.75 dated 01.04.2016.

Point No.1 to 6 of Circular No.75 dated 01.04.2016 speaks about the procedure to be carried out in case of excess demand recorded above 5% of contracted demand.

In Point No.7, Respondent has made observations of excess demand in relevant HT/LTMD tariff category with tolerance of 5% contract demand and fixed up the upper limit of 4200KVA in HT category and 105 KW in case of LT category consumers.

Respondent has worked out energy and demand formula with grossed up by 9.55% losses of LT network (tariff order 2015-16) for LTMD consumers whose contracted demand is more than 105 KW. Billing in case of such consumers, shall be done as per following formula:

(1) Energy for HT billing = Energy recorded in HT meter x 100/ (100%-9.55% loss of LT)

(2) Demand for HT billing = Actual Demand (KW)x100/ (100%-9.55%) x Average Power Factor.

Where average Power Factor = Kwh / KVAh

If KVAh is not readily available in meter, then same is to be derived by formula KVAh = square root of (KWh^2 + $KVArh^2$).

The above formula is worked out by Distribution Licensee i.e. Respondent.

In reference to above guidelines, Audit Team of Respondent had proposed supplementary bill for the Financial Year 2014-15 and for the period April,2015 to March,2017 as per Para 4.1.

Here the question came to decide that whether LTMD consumers, in case of more than 5% of excess demand of contract demand, are eligible for HT category billing or otherwise.

On record of excess drawl of demand against contracted demand of Appellant for the period November,2014 to March,2015 and April,2015 to March,2017, Respondent had availed the HT billing under LTMD category consumers and later on supplementary bill was issued, which is required to be decided.

4.5. It is necessary to refer the provisions of LTMD tariff of the tariff order published by GERC, which is as under:

5.0 RATE: LTMD :

This tariff is applicable to the services for the premises those are not covered in any other tariff categories and having aggregate load above 40kW and up to 100KW.

This tariff shall also be applicable to consumer covered in category- 'Rate:Non-RGP' so opts to be charged in place of 'Rate: Non-RGP' tariff.

5.1 FIXED CHARGES:

(a) For billing demand up to the contract demand	
(i) For first 40 KW of billing demand	Rs.90/- per KW per month
(ii) Next 20 KW of billing demand	Rs.130/- per KW per month
(iii) Above 60 kW of billing demand	Rs.195/- per KW per month
(b) For billing demand in excess of the contract demand	Rs.265/- per KW

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5.2: ENERGY CHARGES:

For the entire consumption during the month	460 paise per Unit

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5.3. REACTIVE ENERGY CHARGES:

For all the reactive units (KVARH) drawn during the month	10 paise per KVARH

5.4. BILLING DEMAND:

The billing demand shall be highest of the following:

(a) Eighty-five percent of the contract demand

(b) Actual maximum demand registered during the month

(c) 15 KW

From the above, billing demand in excess of the contract demand rate per KW is framed and said amount of demand charges is recoverable, means in case of 5% or more excess demand of contract demand, rate

per KW is fixed in tariff order, which is at all recoverable amount of demand charges.

4.6. GERC Supply Code Notification No.4 of 2015 has defined the various definition and interpretation in Section-2.

2.1(18): **'Consumer'** refers to any person who is supplied with electricity for his/her own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the 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. A consumer is specified as a:
(i) 'Low Tension Consumer (LT Consumer)' if he obtains supply from the licensee at low or medium voltage;
(ii) 'High Tension Consumer (HT Consumer)' if he obtains supply from the licensee at High Voltage;
(iii) 'Extra High Tension Consumer (EHT Consumer)' if he obtains supply from the licensee at Extra High Voltage;

2.1(23): **'Demand Charge for a billing period'** refers to a charge levied on the consumer based on the contracted/sanctioned/connected load or maximum demand (reference to definition no. (46) of this Code) as the case maybe and shall be calculated as per the procedure laid down in the Tariff Order approved by the Commission; "Demand charges for a billing period"

2.1(46): **'Maximum Demand'** refers to the Maximum Demand in kW or KVA, as the case may be, shall mean an average kW/kVA supplied during consecutive 30 / 15 minutes (depending upon the type of meter being used) period of maximum use where such meter with the features of reading the maximum demand in kW/kVA directly, has been provided;

2.1(31): **'Energy charge'** refers to a charge levied on the consumer based on the quantity of electricity (units in kWh or kVAh as per tariff schedule including fuel surcharge and time of use charges) supplied;

2.1(44): **'Low Tension or LT/ Low Voltage'** refers to Voltage not exceeding 440 volts;

4.7. Section-3 System of Supply and classification of consumers of Supply Code,2015, Clause 3.2 has defined voltage class of AC supply as under:

Category	System of supply
For all installations up to and inclusive of 6 KW of Connected Load, subject to motive power load other than irrigation pump not exceeding 2 HP in the aggregate.	230 V- Single Phase
For all installations exceeding 6 kW of Connected Load (motive power load exceeding 2 HP and up to 150 HP in the aggregate) and up to 100 KVA/kW of Contracted Demand.	400 V- Three Phase
For all installation with Contract Demand exceeding 100 KVA/kW and up to 4000 kVA/kW. However, for the existing 22 KV consumer, the Contact Demand limit shall be extended up to 8000 KVA/KW subject to undertaking from consumer for reverting back to 4000 kVA/kW limit in case of change of system to 11KV under system conversion scheme.	11 kV and 22 KV – Three Phase
All installation with Contract Demand exceeding 4000 KVA/KW.	At 33 KV and above- Three Phase

The Consumer may opt for higher profile of supply even though the contracted load is less than the specified limit under higher profile of supply, if he so desires. In case of existing consumers drawing power at lower voltage, if due to the additional requirement they cross the threshold limit of load, in such cases the licensee may, as far as possible, make commercially viable offer to the consumers so that he opts for the next higher voltage of supply. The commercial offer may be framed taking into consideration the following-

(a) Likely reduction in Transmission and Distribution Losses;

(b) Load reduction on transformers of licensee's system and their availability for meeting new requirements.

However, supply to existing consumers at voltage lower than the limit specified above, should continue and in case their load requirement increases, the above specified load limit will be applicable.

Co-jointly read with Clause 3.2 and Clause 4.95 it is well defined guidelines/provisions available for Respondent to change class of voltage supply with appropriate class of voltage supply in case of excess drawl of contract demand beyond permissible limit by LT consumers. The said procedure is availed by the Respondent first to upgrade the distribution system along with appropriate tariff as per contract demand for the billing purpose.

4.8. In this case, as per established record as stated regarding excess demand of 5% more of contract demand has been observed during F.Y. 2014-15, 2015-16 and 2016-17 and Respondent had initiated action and instructed Appellant to control his contracted demand w.e.f. letter dated 30.03.2015. In earlier period i.e. up to 24.09.2015, Supply Code,2005 was in existence, and as per Clause No.8.3.4, Respondent

had intimated Appellant accordingly and thereafter on publication of Supply Code,2015 w.e.f. 24.09.2015, as per Clause 4.95, Appellant was intimated to control contracted demand on the basis of record of contracted demand exceeded 5%. Subsequently Respondent had acted upon as per provisions of Clause 4.95 of Supply Code,2015 and initiated Suo Moto proceedings and issued estimate for HT connection for contracted demand of 125 KVA on 30.10.2017 and directed to pay the estimated amount of Rs.8,35,253/-, but it was not paid by Appellant.

4.9. Respondent has prepared and issued supplementary bill to Appellant as per Technical Circular No.75 dated 01.04.2016 for LTMD to HT tariff difference due to excess recorded demand above 100KW as per observation of Audit Team.

As per revised guidelines of Technical Circuar No.75, issued vide letter No.716 dated 03.07.2018, CRC, Nadiad Circle had treated supplementary bill of Rs. 3,27,244.8 dated 30.10.2017 as cancelled and directed to recover Rs. 96,579.83 for the month of February,2017 and March,2017.

CGRF, MGVCL had upheld the direction of CRC, Nadiad Circle Office for revising supplementary bill for the month of February,2017 and March,2017 and also upheld the action of regularization of contract demand of Appellant by issuing the estimate under HT category.

From aforesaid details, it is viewed that the stand taken by Respondent vide Technical Circular No.75 dated 01.04.2016 is not in accordance with the provisions of Supply Code. The HT billing suggested by Respondent is not having any support from the provisions of Supply Code,2015 as well as Tariff Order issued by GERC.

4.10. Both the tariff i.e. LTMD and HT tariff are different one and defined separately by GERC in tariff order.

LTMD tariff covers under Part-I, Schedule of tariff for supply of electricity at low and medium voltage while HTP tariff covers under Part-II tariff for supply of electricity at High Tension (3.3 KV and above 3-phase 50 hertz) and extra High Tension.

It is also to clarify that both tariff have separate provisions in recovery of charges in case of excess maximum demand records to stipulated contract demand.

According to such schedule of tariff, Respondent is entitled to apply appropriate tariff as per contract demand as per agreement executed between the parties. Without following the laid down procedure as mentioned in Clause 4.95 of Supply Code,2015, Respondent cannot issue the supplementary bill to Appellants under HT tariff category and cannot recover the difference of charges between LTMD and HT tariff.

Therefore, action of Respondent for issuing supplementary bills to Appellants are not having regulatory ground as per said provisions of Supply Code,2015 or as per tariff schedule published by GERC.

4.11. In above circumstances, the supplementary bills issued as per Para No.3.1 to the Appellants for the difference of amount of billing for LTMD category to HT category are not sustained in accordance with the provisions of Supply Code,2015 and tariff order. Therefore, Respondent is directed to cancel the revised supplementary bill so issued as per directives of CRC, Nadiad for the month of February,2017 and March,2017.

4.12. From the observations made in the case of excess maximum demand recorded in the financial years 2015-16 and 2016-17, it is seen that timely actions have been initiated by Respondent for directing Appellant to control contracted demand, but later on after observation of four times violation for excess drawl of contracted demand, timely action had not been initiated by Respondent for issuing estimate under HT category. Hence, Respondent is directed to adhere to the provisions stipulated as per Clause No. 4.95 of Supply Code,2015 and take necessary action in time for such type of cases accordingly.

4.13. Appellant has exceeded demand repeatedly and has failed to maintain the demand within permissible limit in spite of several intimations issued by Respondent to restrict the contracted demand or to apply for extension of load i.e. HT supply.

In view of above, action initiated by Respondent for issuing estimate for HT connection for 125 KVA contracted demand is as per Clause 4.95 of Supply Code, 2015.

Appellant has not followed the instructions for maintaining the contracted demand. Therefore, Appellant is directed to pay estimated amount and to opt HT connection.

Respondent is also directed to observe the necessary provisions in this regard and take suitable action in case of non-payment of estimate.

Compliance may be reported within 60 days of receipt of order.

4.14. I order accordingly.

4.15. No order as to costs.

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

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 01.03.2019.