

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

CASE NO.32/2019

Appellant: M/s. Gujarat Polyfils
(A Unit of Modern Insulators Ltd.)
Block No.280,281,282.
Village: Nana Borsara-394125
Ta.Mangrol. Dist. Surat.

Represented by: Shri Kirtikumar N. Shah, Authorized representative.
Shri Darshil H. Vora

V/s.

Respondent: Executive Engineer,
Dakshin Gujarat Vij Company Ltd.,
Division Office, Kadodara-394327. Dist.Surat.

Represented by: Shri H.V.Khasiya, DE, DGVCL, Kadodara, Divn.office.

:::PROCEEDINGS:::

- 1.0.** The Appellant had submitted representation aggrieving with the order No.4742 dated 29.03.2019 passed by the Consumer Grievances Redressal Forum, DGVCL, Surat, in case No.153/2018-19. The representation was registered at this office as Case No.32/2019. The hearing of this case was kept on 28.05.2019.
- 2.0.** Appellant has represented the case as under.
 - 2.1.** Appellant is a HT consumer of Respondent, bearing consumer No.39844 under HTP-I category, having polyester yarn manufacturing unit.
 - 2.2.** Respondent has contravened certain provisions contained in GERC Case No.1548/2015 dated 31st March,2016 for determination of tariff for the financial year 2016-17, GERC case No.1623/2016 dated 31st March, 2017 for determination of tariff for financial year 2017-18 and GERC Case No. 1700/2018 dated 31st March,2018 issued by Commission in exercise of the powers under the Act and other related matters as listed below:

- (i) Power Factor Adjustment charges & Power Factor Rebate.
 - (ii) Respondent ignored the simple rule of rounding off in calculation of Power Factor and Power Factor Rebate.
- 2.3. In this regard, Appellant had submitted application to Respondent with the revised calculation and demanded refund of excess amount with applicable interest vide letter dated 20.07.2018, and still Appellant is waiting for reply. After telephone inquiry and follow up in person with concern officer of Kadodara Division, Appellant was informed that the matter has been referred to Circle Office and Corporate Office for getting directives. Thus, the matter is pending since long. Therefore, Appellant had approached Forum. Forum has passed the order which does not justify the prayers of Appellant.
- 2.4. Appellant has submitted brief history of the case as under.
 - (1) Appellant gone through the invoices issued by Respondent and found some common error, invoice specific error/reading error and misinterpretation of the tariff order. Also Respondent is not guided by GERC order and its clauses under:
 - (i) GERC Case No. 1548/2015 dated 31.03.2016 for determination of Tariff for FY 2016-17.
 - (ii) GERC Case No. 1623/2016 dated 31.03.2017 for determination of Tariff for FY 2017-18.
 - (iii) GERC Case No. 1700/2018 of 31.03.2018 for determination of Tariff for FY 2018-19
 - (2) Calculation of Power Factor rebate.

After scrutiny of energy bills, Appellant found that calculation of Power Factor rebate is not as per the tariff order, but it is calculated through the software commonly used by all Division Office – billing offices.
- 2.5. As per Sub-clause 13.6.2 of Clause 13.6 of GERC case No.1548/2015, dated 31.03.2016, for determination of tariff for FY 2016-17, as below:

13.6: POWER FACTOR ADJUSTMENT CHARGES.

13.6.2: Power Factor Rebate.

“If the Power Factor of the consumer’s installation in any month is above 95%, the consumer will be entitled to a rebate at the rate of 0.5% in excess of 95% Power Factor on the total amount of electricity bill for that month under the head “Energy Charges”, arrived at using tariff as per para 13.2 of this schedule, for every 1% rise or part thereof in the average Power Factor during the month above 95%.”

As per above mentioned “Clause 13.6.2 Power Factor rebate” Respondent has to calculate rebate on Energy Charges, arrived at using tariff as per para 13.2 of his schedule, whereas Respondent calculates the Power Factor rebate using energy charges as per Para 13.2 less concession for use of electricity during night hours as per Para 13.10.

2.6. It is submitted that Appellant has observed common error in calculation of Power Factor as well as Power Factor Rebate.

Respondent calculates the Power Factor in fraction of three digits and thereby ignore the simple rule of rounding off.

Respondent calculates the Power Factor in slab of 0.001 i.e. 0.999, 0.998, 0.997 and Power Factor rebate in fraction of two digits with a slab of 0.05% i.e. 2.50, 2.45, 2.35, 2.30.....

To derive the Power Factor and Rebate of Power Factor, Respondent ignores the simple rule of rounding off.

Appellant has explained the simple rule of rounding off as under.

For example, 0.9723 becomes 0.972, 0.9725 becomes 0.973, 0.9729 becomes 0.973 etc.

2.7. Appellant has submitted calculation effect of rounding off of Power Factor and Power Factor rebate as under vide his letter dated 01.06.2019.

Billing month	Energy charge	Actual PF= KWh/ KVarh	PF Rebate as per DGVCL			PF rebate after rounding off			Diff. Amount (Rs.)
			PF	PF rebate %	PF rebate Amount (Rs.)	PF	PF rebate %	PF rebate Amount (Rs.)	
	A	B	C	D	$E=(A*D)/100$	F	G	$H=(A*G)/100$	I=H-E
May-16	14957937.00	0.9978	0.997	2.35	351511.52	0.998	2.40	358990.49	7478.97
June-16	14150848.50	0.9982	0.998	2.40	339620.36	0.998	2.40	339620.36	0.00
July-16	14595705.00	0.9988	0.998	2.40	350296.92	0.999	2.45	357594.77	7297.85
Aug.-16	14237730.00	0.9995	0.999	2.45	348824.39	1.000	2.50	355943.25	7118.86
Sept.16	13226305.50	0.9987	0.998	2.40	317431.33	0.999	2.45	324044.48	6613.15
Oct.-16	13738887.00	0.9979	0.997	2.35	322863.84	0.998	2.40	329733.29	6869.44

Nov.-16	10206157.50	0.9994	0.999	2.45	250050.86	0.999	2.45	250050.86	0.00
Dec.-16	9793035.00	0.9999	0.999	2.42	239929.36	1.000	2.50	244825.88	4896.52
Jan.-17	12658576.50	0.9995	0.999	2.45	310135.12	1.000	2.50	316464.41	6329.29
Feb.-17	11397924.00	0.9999	0.999	2.45	279249.14	1.000	2.50	284948.10	5698.96
Mar.-17	12717207.00	0.9999	0.999	2.45	311571.57	1.000	2.50	317930.18	6358.60
Excess payment paid in the FY 2016-17									58661.65
Apr.-17	13296739.50	0.9982	0.998	2.40	319121.75	0.998	2.40	319121.75	0.00
May-17	14557972.50	0.9966	0.996	2.30	334833.37	0.997	2.35	342112.35	7278.99
June-17	13177543.50	0.9988	0.998	2.40	316261.04	0.999	2.45	322849.82	6588.77
July-17	14241406.50	0.9974	0.997	2.35	334673.05	0.997	2.35	334673.05	0.00
Aug.17	14328288.00	0.9948	0.994	2.20	315222.34	0.995	2.25	322386.48	7164.14
Sept.17	13707927.00	0.9975	0.997	2.35	322136.28	0.998	2.40	328990.25	6853.96
Oct.-17	13516555.50	0.9985	0.998	2.40	324397.33	0.999	2.45	331155.61	6758.28
Nov.-17	11052526.50	0.9999	0.999	2.45	270786.90	1.000	2.50	276313.16	5526.26
Dec.-17	11976295.50	0.9989	0.998	2.40	287431.09	0.999	2.45	293419.24	5988.15
Jan.-18	12174052.50	0.9977	0.997	2.35	286090.23	0.998	2.40	292177.26	6087.03
Feb.-18	6019785.00	0.9844	0.984	1.70	102336.35	0.984	1.70	102336.35	0.00
Mar.-18	7954204.50	0.9914	0.991	2.05	163061.19	0.991	2.05	163061.19	0.00
Excess payment paid in the FY 2017-18									52245.58
Apr.-18	7660471.50	0.9999	0.999	2.45	187681.55	1.000	2.50	191511.79	3830.24
May-18	7860550.50	1.0000	1.000	2.50	196513.76	1.000	2.50	196513.76	0.00
Total									114737.47
Note:	1. Energy Charges means energy charges as per Clause 13.2 of tariff order. 2. To calculate actual PF, KWh and KVarh units take as per DGVCL bill								

2.8. Appellant has prayed as under:

- (1) Direct the Respondent to calculate the energy bill as per Para 13.6.2 of tariff order in the matter of Power Factor rebate.
- (2) To direct the Respondent to apply simple rule of rounding off to derive the Power Factor.
- (3) To direct the Respondent to revise the energy bills issued from April, 2016 to till date and to refund the excess amount with an applicable interest
- (4) To Direct the Respondent to issue the energy bills as per Tariff order from now.

3.0. Respondent has represented the case as under.

3.1. It is submitted that as per tariff order 14.6.2 “if power factor of the consumer’s installation in any month is above 95%, the consumer will be entitled to a rebate at the rate of 0.5% in excess of 95% power factor on the total amount of electricity bill for that month under the head “Energy Charges”. As per this Clause Respondent has to calculate rebate on energy charges arrived at using tariff as per Para 14.2 of this schedule, whereas Respondent has calculated the power factor rebate using energy charges as per para 14.2 less concession for use of electricity during night hours as per Para 14.10.”

Here the definition of energy charges means “the total unit after rebate of night hours unit adjustment only”. So it is clearly mentioned in tariff order also to consider the total energy charges which is defined above.”

- 3.2. It is argued that the power factor measurement should be in round off method but as per calculation of power factor rebate, Respondent considers three digits for simplify the calculation so the matter is unarguable.
- 3.3. In order para Ref. 2 of CGRF, it is directed to pass the benefit of power factor rebate to the complainant from the date of GUVNL guideline issued dated 29.05.2018. Accordingly, the bill is calculated.
- 3.4. Power factor rebate calculation from 29.05.2018 to 01.11.2018 is as under:

Month	Consumption	Rate	Total EC	PF%	PF Rebate	PF rebate given	Diff.	15% duty	Net refundable amount
June-18	346491	4.3	1489911.00	2.40	35757.87	34624.74	1133.13	169.97	1303.10
July-18	17928	4.3	77090.40	2.50	1927.26	1870.74	56.52	8.48	65.00
Aug.-18	15660	4.3	67338.00	2.35	1582.44	1538.11	44.33	6.65	50.98
Sept.-18	15588	4.3	67028.40	2.50	1675.71	1629.99	45.72	6.86	52.58
Oct.-18	6156	4.3	26470.80	2.50	661.77	643.41	18.36	2.75	21.11
								Total	1492.77

::: 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 question of billing mentioning power factor rebate and calculation of power factor was raised first time by Appellant vide letter dated 20.07.2018 before Executive Engineer, DGVCL, Kadodara. In the said complaint letter Appellant had pointed out GERC tariff order Clause 13.6 “Power Factor adjustment charges” and asked to recalculate energy bills from April,2016 as per errors found in present billing system. Respondent had not replied to Appellant in this regard and hence Appellant had filed grievance before CGRF.
- 4.2. CGRF has heard the parties and decided the grievance observing the factual details. Forum has observed and noted the facts as under.
- (6) *The Forum has taken the Notice of GUVNL letter No. GUVNL/ COM/ Tariff/2018-19/611 dated 29.05.2018 regarding discrepancies*

observed in HT billing Program in which at Para No.4 Power Factor Adjustment Charges/Rebate is taken care of.

- (7) *That as per tariff order of 2016-17, Clause NO.14.6.2 “if the power factor of the consumer’s installation in any month is above 95%, the consumer will be entitled to a rebate at the rate of 0.5% (half percent) in excess of 95% power factor on the total amount of electricity bill for that month under the head “Energy Charges”. As per above mentioned Clause 14.6.2 Power Factor rebate, DGVCL has to calculate rebate on Energy charges, arrived at using tariff as per Para 14.2 of this schedule, whereas DGVCL calculate the power factor rebate using energy charges as per Para 14.2 less concession for use of electricity during night hours as per Para 14.10.”*
- “Here the definition of Energy Charges means “The total unit after rebate of night hour’s unit adjustment only”. So it is clearly mentioned in tariff order also to consider the total energy charges which are defined above.”*
- (8) *The complaint has argued that the PF measurement should be in round off method but as per calculation of PF rebate at present considering three digits for simplify the calculation. At present the Respondent is considering three digits for PF calculation and third digit is not round off as per present common practice. The complainant has not submitted any evidence for the issue.*
- (9) *The calculation of Energy Bill for consumer is based on computerized program which is designed commonly for all DISCOMs.*
- (10) *A present the program of HT billing is modified by the competent authority in such a way that the benefit of power factor rebate on the total amount of electricity bill for the month under the head “Energy Charges” (for entire consumption during the month) is calculated according to the provision of tariff order. The effect of the same is given to HT consumers from the billing month March,2019.*
- (11) *Respondent is directed to pass on the benefit of power factor rebate to the complainant from the date of GUVNL guidelines issued dated 29.05.2018.*

4.3. In the representation, Appellant has produced computerized generated energy bills for the month of June,2016, June,2017 and April,2018, along with calculation of sheet prepared with considering power factor calculation with rounding off and power factor rebate showing net difference of amount between the computerized generated bills and calculated sheets as per energy billing parameters of above three months. Appellant has highlighted an error in calculation of energy bills so issued by Respondent and requested to recalculate energy bills from April,2016.

- 4.4. Present complaint was filed on 20.07.2018 by Appellant before Respondent but prior to that GUVNL (present company of Respondent) had circulated the guidelines regarding discrepancies observed in HT billing programme vide letter No. GUVNL/Com/Tariff/2018-19/611 dated 29.05.2018 and directed I.T. Department for making correction in the billing Software as per laid down provisions of tariff order of GERC.
- 4.5. In the present representation, Appellant had filed complain first time on 20.07.2018 against the energy bills of June,2016, June,2017 and April,2018 showing calculation error in preparing energy bills. Cause of action in this case had arisen from June,2016 onwards by presenting bills of June,2016, June,2017 and April,2018, while grievance was filed first time on 20.07.2018 before Respondent and thereafter before CGRF on 07.01.2019. The CGRF has made observations as per Para No.4.2 mentioned above and granted relief w.e.f. GUVNL Circular dated 29.05.2018 for revision of energy bills and accordingly Respondent has made calculation as per Para No.3.4. By way of decision of CGRF, it has been accepted the contentions of Appellant for not granting power factor rebate as per provisions of relevant tariff order. However, CGRF has restricted the period for passing benefit of power factor rebate to Appellant i.e. up to 29.05.2018.

Appellant has raised issued of power factor calculation with rounding off rule. On this issue, calculation sheet for the month of June,2016, June,2017 and April,2018 has been presented. On observation with energy bills served for the said months, deviation in value of power factor are found in those months. Accordingly, difference was found in net payable amount of energy bills in consideration of power factor (rounding off value) and rebate on power factor on energy charges.

From the above argument of Appellant, Respondent has not filed any comment on part of rounding off value of power factor derived as well as rebate on power factor on energy charges.

Above calculations are made by the Appellant in reference to the provisions of tariff order. Forum has accepted the error on part of rebate

on power factor on energy charges and directed Respondent to grant benefit of power factor rebate with effect from the date of issue of GUVNL letter dated 29.05.2018. On part of power factor calculation with rounding off value, CGRF has noted that Appellant has not submitted any evidence related with it, while in this representation, Appellant has produced energy bills for the month of June,2016, June,2017 and April,2018, along with calculation sheet, calculating the bills with rounding off values of power factor and rebate on power factor on energy charges, without deducting night hours consumption as per contents of provisions of relevant tariff order.

Going through the above calculation and having found deviation in the calculation methodology of billing system during the above months, the arguments canvassed by the Appellant are found true, as far as error found in energy bills for the above months.

- 4.6. Appellant has prayed to direct the Respondent to revise the energy bills issued from April,2016 to till date and to refund the excess amount along with an applicable interest.

In the above issue, it is noted that the complaint was filed by Appellant on 20.07.2018 first time before Respondent for revision of energy bills from April,2016 onwards. Looking to the Clause No.2.30 of Notification No.2 of 2011, relevant provisions read as under:

A Complainant shall not be entitled to approach the Forum in any of the following cases:

- i. In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee, are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;
- ii. In cases which fall under sections 126, 127, 135 to 139, 152 and 161 of the Act;
- iii. In cases where the Complaint/Grievance has been registered two years after the date on which the cause of action has arisen
- iv. Complaints/Grievances which are:
 - a) frivolous, vexatious, malafide;
 - b) without any sufficient cause;
 - c) there is no prima facie loss or damage or inconvenience caused to the Complainant.

Provided that no Complaint/Grievance shall be rejected unless the Complainant has been given an opportunity of being heard.

Appellant has claimed for refund against error in energy bill for the period from April,2016 to till date. The grievance was admittedly filed before Respondent on 20.07.2018 and before Forum on 07.01.2019. Forum has held that as per directives of letter dated 29.05.2018 of GUVNL, necessary correction to be made and benefit of power factor rebate to be given to Appellant. Cause of action has been arisen with issuing of energy bills for the month of April,2016, and for that within two years, i.e. prior to March,2018, Appellant had to file/register the complaint. In this case Appellant has made complaint for error in energy bills first time on 20.07.2018. Therefore, considering the statutory provisions of Regulation 2.3(iii) of CGRF & Ombudsman Regulations-2011, limitation period of two years for revision of energy bills has to be taken into account.

Considering the complaint filed on 20.07.2018 before Respondent, period from July,2016 onwards is valid period to deal with for passing directives.

- 4.7. In the above circumstances, if energy bills as per relevant tariff order and as per directives passed by GUVNL Circular dated 29.05.2018 are not prepared and not issued to Appellant, then in that case energy bills from July,2016 onwards to be revised and if any amount found refundable, it should be refunded in the next energy bill by way of credit.
- 4.8. I order accordingly.
- 4.9. No order as to costs.
- 4.10. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 02.07.2019.