

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

CASE NO. 97/2018

Appellant : M/s. Dhartidhan Ind.(Ginning & Pressing)
Survey No.306, 306-2, Kadi-Kalyanpura Road
Nani Kadi-382715. Ta: Kadi. Dist.Mehsana

Represented by: Shri B.M.Vaishnav, Learned Advocate
Shri Y.J.Bhavsar, Accountant

V/s.

Respondent: Executive Engineer
Uttar Gujarat Vij Company Ltd.,
Division Office, Kadi-Kalol Road,
KADI-382715. Dist. Mehsana.

Represented by: Shri S.B.Patel, DE, UGVCL, Kadi Divn.

:::PROCEEDINGS:::

- 1.0. The Appellant had submitted representation aggrieving with the order No. 3182 dated 27.09.2018 passed by the Consumer Grievances Redressal Forum, Uttar Gujarat Vij Company Limited, Mehsana, in case No. UG-02-003-2018-19. The representation was registered at this office as Case No.97/2018. The hearing of this case was kept on 29.11.2018. The next hearing of this case was kept on 13.12.2018.
- 2.0. The case is represented by Appellant as under.
 - 2.1. Appellant is a HT industrial consumer of the Respondent, bearing consumer No. 19280. Appellant is categorized as the seasonal consumer under the tariff order issued by GERC and accordingly he had applied on 12.05.2017 to give the benefit of "off season" period of three months from July,2017 to September,2017.
 - 2.2. It is submitted that Para No. 13.11.12 of tariff order of Respondent issued by GERC for the relevant time provided that any consumer to

be billed for the minimum charges on annual basis shall intimate to that effect in writing to the Respondent company at least one month in advance and the total off-season period shall not be less than three calendar months.

- 2.3. It is submitted that the aforesaid application made by Appellant was within the time and as per the procedure prescribed in the tariff order, therefore Appellant was entitled to the benefit as admissible under the tariff order.
- 2.4. It is submitted that in spite of the above, Appellant has received a supplementary bill amounting to Rs. 13,19,644.48 being the difference of the amount of the bill calculated for the entire calendar year 2017 in HTP-I tariff and SHTP-I tariff treating the Appellant as the non-seasonal consumer without giving any benefit as the seasonal consumer.
- 2.5. It is submitted that to avoid disconnection of power supply, Appellant has paid entire amount of the supplementary bill under protest and submitted copy of the money receipt.
- 2.6. It is submitted that Appellant, vide letter dated 20.03.18 & 11.05.18, has requested Respondent to provide details of the daily MRI data of the meter for the period May,2017 to November,2017 for ascertaining the correct situation. In reply to this, instead of daily data of MRI, Respondent company has provided monthly MRI data.
- 2.7. It is submitted that as Respondent has issued supplementary bill as non-seasonal consumer, Appellant was constrained to make a complaint to CGRF. After hearing both the parties, CGRF has rejected the complaint vide order dated 27.09.2018 and has upheld the action of Respondent company for issuing the bill. Aggrieved with the order of CGRF, Appellant has filed this representation before Ombudsman.

2.8. Appellant has submitted following grounds:

- (i) Appellant has intimated to the Respondent company well within the time and as per the procedure prescribed for giving the benefit but the same has not been given by Respondent.
- (ii) The tariff order provides for giving the benefit for three billing cycles start from the middle of the month i.e. 15th of every month, and therefore consumption recorded and billed for the month of July being 21264 units for the period 15.06.2017 to 14.07.2017, which is about one fourth consumption of 87008 units recorded for the month of June,2017 i.e. from 15.05.17 to 14.06.17, which means no production was done w.e.f. 01.07.2017, the date of commencement of the off-season period from July,2017 to September,2017, and the said consumption of 21264 units is attributed to the normal production, if any, made during the period from 16.06.16 to 30.06.17, including the consumption made for the maintenance purpose during the said period.
- (iii) The industry of the Appellant was totally closed for production purpose and the employees engaged were not attending the factory for the said three months as could be seen from the copies of the muster roll for the said three months.
- (iv) It is submitted that Appellant has not made any production during the period from 01.07.2017 to 30.09.2017 as Appellant was enjoying “off-season” period. However, Respondent company has ignored the aforesaid factual and legal position and thereby Appellant has been deprived off from enjoying the financial benefit of off-season period without any concrete and genuine reasons.

- (v) The tariff order is issued by GERC under Section 62 of the Electricity Act,2003 and therefore, the said is legally binding upon the Respondent and the consumers as well. However, in case of Appellant, he himself has complied with the procedure prescribed for obtaining the benefit but on the other hand the Respondent has failed to discharge its legal obligation imposed upon it to give the benefit to the Appellant as provided in the tariff order.
- (vi) It is submitted that Appellant had requested the Respondent to provide daily data of the consumption recorded by the meter during the relevant period, but it was not provided by Respondent. If such data would have been provided, the exact figure of consumption made by the Appellant during the relevant period could have been ascertained and the Appellant would not have been made subjected issue of the bill as non-seasonal consumer.
- (vii) It is submitted that there are standing instructions from the Head Office of the Respondent that in cases of seasonal consumer, the meter reading should be taken on the last day of the month previous to the commencement of the month off-season period, when the billing cycle is in the middle of the month, and therefore, if such a reading would have been taken the exact figure of the consumption made by the Appellant during the relevant period could have been ascertained and the Appellant would not have been made subjected issue of the bill as non-seasonal consumer.
- (viii) Thus no any fault on the part of the Appellant, he has been penalized unnecessarily by making him subjected to the issue of the bill.

- (ix) CGRF has held that the regular consumption is recording during the off-season and the Respondent has also submitted that such consumption is about 25% of the regular consumption recorded during the previous month i.e. June,2017, but as learnt by the Appellant, no any such ceiling of percentage of consumption is prescribed, and as submitted earlier, the consumption of 21264 units is for the period from 15.06.2017 to 30.06.2017, during which the Appellant was authorized to make the production as per routine because the off-season period was from 01.07.17 to 30.09.17.
- (x) During the hearing before CGRF, the Appellant had produced the data of the purchase of raw materials means the cotton for the period from 01.07.17 to 30.09.17 and it clearly reveals from the said data that no any purchase of raw materials was made during the said period. This data was submitted to the GST authorities of the State through the consultant. This shows that when no any purchase was made, naturally no any production was done during the said period. Copies of the said data was submitted before CGRF, however it has not been considered and discussed about this aspect in its order.
- (xi) It is submitted that since the Appellant has been deprived of from the benefit, he has to undergo much financial constraints and hardships and resultantly his various activities and future planning have been jeopardized for no fault on his part but due to the fault on the part of Respondent.
- (xii) Since the Respondent company has acted beyond the provisions of the relevant law, rules and regulations, the Appellant has no any other alternative except to approach Ombudsman for seeking justice in the matter of granting the prayers made in his appeal.

- (xiv) It is submitted that when the tariff order categorically provides for calculating the off-season period as three calendar months, the billing cycle starting from the middle of the month in case of the Appellant cannot come in way in deciding the benefit. However, CGRF has not appreciated and considered these statutory provision of the tariff order issued under the Act.
- (xv) Since the order of the CGRF is not fully reasoned one and the same is without consideration of the important material aspects, it deserves to be quashed entirely and set aside.
- (xvi) It is submitted that in view of the above submission, the bill of Rs. 13,19,644.48 issued by Respondent company for the difference of amount of the bill calculated at HTP-I and SHTP-I deserves to be quashed entirely and set aside.

2.9. Appellant has prayed as under.

- (i) to quash the order dated 27.09.18 of CGRF.
- (ii) to quash the supplementary bill.
- (iii) to refund the amount of Rs.13,19,644.48, which has already been paid along with interest thereon as admissible.

3.0. The case is represented by Respondent as under.

3.1. It is submitted that Appellant is a HT industrial consumer bearing consumer No.HT-19280.

3.2. Appellant had applied on 12.05.17 to get benefit of off-season period from July,2017 to September,2017.

3.3. It is submitted that to obtain season consumer benefit Appellant must apply at least one month advance and off season period shall not be less than three calendar months.

3.4. Appellant had applied on 12.05.17 to get benefit of off-season period of three months from July,2017 to September,2017. Appellant is considered for seasonal consumer as per new tariff order Section 13.11.2 observing rules and regulations and terms and conditions.

- 3.5. Appellant has breach terms and conditions for seasonal consumer as per Section 13.11.2 of tariff order, so he has been served with supplementary bill amounting to Rs.13,19,644.48 being difference of the amount of bill calculated for the entire calendar year 2017 at SHTP-I to HTP-I (non-seasonal consumer) tariff rate, which is paid by Appellant on 24.04.2018.
- 3.6. It is submitted that MRI data whatever available through MRI has been provided to Appellant.
- 3.7. It is submitted that as per billing cycle of Respondent, in the month of June,2017 and July,2017 the consumption of Appellant is abnormal (in eight months/average consumption 82695 and from June,2017 to September,2017 it is 28900), so Appellant has been treated as per HTP-I tariff.
- 3.8. As per billing cycle the consumption observed is as under:

Sr. No.	Month	Consumption (KWH)		
		2015	2016	2017
1	January	200168	184224	97368
2	February	167032	259776	80536
3	March	151376	166224	80600
4	April	103224	146760	67984
5	May	55104	108456	47472
6	June	5912	27352	87008
7	July	4368	3720	21264
8	August	4192	3760	3416
9	September	3736	4168	3912
10	October	4496	5048	5616
11	November	129704	39536	93688
12	December	148368	62496	189296

The average consumption of eight months i.e. from January,2017 to May,2017 and October,2017 to December,2017 is 82695 KWH and June,2017 to September,2017 is 28900 KWH.

The consumption during May,2017 is 47472 KWH and October,2017 is 5616 KWH, whereas average consumption of December,2017 is 189296 KWH which shows that factory consumption is according to

the work order/sale orders production target and therefore argument of Appellant about consumption during July,2017 is not valid.

According to tariff order of April,2017, category HT seasonal consumer can consumed energy during off season period shall be mainly for overhauling of plant and machinery which shows that Appellant has not observed off season period.

Appellant is enjoying benefit of seasonal consumer since the year 2008 and he is very well aware of terms and conditions of seasonal consumer. Appellant has never raised such type of issue in past for the year 2015 and 2016, where he has benefitted of seasonal consumer.

The consumption pattern as seen in the above mentioned table is almost same.

- 3.9. Appellant has been billed as per prevailing methodology conditions of 13.11.1, 13.11.2, 13.11.3 of tariff order, which are as under:

Condition No. 13.11.1:

“The expression, ‘seasonal consumer’ shall mean a consumer who takes and uses power supply for ice factory, ice candy machines, ginning and pressing factory, oil mill, rice mill, salt industry, sugar factory, khandsari cold storage plants (including such plants in fishery industry), tapioca industries manufacturing starch, pumping load or irrigation, white coal manufacturers etc.”

Condition No. 13.11.2:

“Any consumer, who desires to be billed for the minimum charges on annual basis shall intimate to that effect in writing at least one month before commencement of billing period about the off season during which energy consumption, if any, shall be mainly for overhauling of the plant and machinery. The off season period at any time shall be a full calendar month/months. The total period of off season so declared and observed shall be not less than three calendar months in a calendar year.”

Appellant has declared the off season period from July,2017 to September,2017 for three months, but has not observed the same during July,2017 as per regular consumption recorded during the month of July,2017 as per regular consumption recorded during July,2017.

Condition No.13.11.3.

The total minimum amount under the head “Demand and Energy charges” payable by a seasonal consumer satisfying the eligibility criteria under Sub-Clause 13.11.1 above shall be Rs. 4550 per annum per KVA of the billing demand.”

Appellant has not observed the off season period as per Condition No.13.11.2, therefore, Appellant is not eligible to be billed for the minimum charges on annual basis. Therefore, supplementary bill of Rs. 13,19,644.48 issued as difference of HTP-I tariff is as per norms of the Respondent company and payable by Appellant.

3.10. Respondent, vide rejoinder dated 24.12.2018, has submitted as under:

- (1) Respondent had started to take reading of seasonal consumer on respective first day of calendar month according to guideline issued vide letter No.AC/AO(IA&I)/1348 dated 23.08.2017.
- (2) According to specification of installed meter, the data can avail for last 65 days. Appellant had asked the meter data vide letter dated 20.03.2018 and Respondent could not provide MRI data for the period May,2017 to November,2017 as it is far beyond the data availability period. Daily data is not available in the existing meter, hence it is not provided to Appellant.
- (3) Appellant is well aware about seasonal tariff and benefit attached with. Appellant has submitted two applications on the same day about seasonal period (1) June,2017 to September, 2017 and (2) July,2017 to September,2017.

3.11. In view of the above, the appeal made before Ombudsman may not be allowed and Forum order may be considered as final order.

::: 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. Appellant is a HT consumer of Respondent having ginning and pressing unit at Kadi, having contracted demand of 850 KVA.

As per tariff order for the year 2017, clause 13.11.1, Appellant falls under seasonal category consumer, and as per prescribed procedure, Appellant had opted seasonal category as per Clause 13.11.2.

The subject issue developed after issuance of supplementary bill as per Para 3.5, considering HTP-I tariff for the Appellant for the year 2017, instead of seasonal tariff.

4.2. It is on record that previously Appellant had opted off season period June,2017 to September,2017 and applied to Respondent. Thereafter, Appellant has opted off seasonal period July,2017 to September,2017 as per application dated 12.05.2017 for getting benefit under seasonal category.

4.3. As per Clause 13.11.2, the off season period at any time shall be a full calendar month/months. The total period of off season so declared and observed shall be not less than three calendar months in a calendar year. During which energy consumption recorded for overhauling of the plant and machinery.

4.4. In present case, Respondent has made billing for the month of July,2017 on 15.07.2017 for the period 16.06.2017 to 15.07.2017. On receipt of application for option under 'off season' for the period July,2017 to September,2017, Respondent has not obtained the parameters of energy from the installed meter of Appellant as it is required to collect for ascertaining the consumption record of calendar month under seasonal category consumer, as per definition of calendar month as given in Supply Code,2015.

4.5. As per record of consumption as shown in Para No.3.8, it is revealed that during off season period July,2017 to September,2017, higher consumption has been recorded in the month of July,2017.

In comparison between 'off season' period for the year 2015 and 2016, consumption for the month July,2017 is about 4 to 5 times more than the same period of previous year 2015 and 2016, where Appellant had opted off season period.

The average nine months' consumption i.e. from January,2017 to June, 2027 and October,2017 to December,2017 is 93696 Kwh, while for the month of July,2017 consumption is 21264 Kwh, which is around 1/4th of average consumption of remaining seasonal months. As per tariff, consumption recorded during off season should be only for overhauling of machinery, from which it is proved that higher consumption is recorded during the month of July,2017. On the basis of record of consumption as mentioned in Para 3.8, if it is considered that after opting off season period from July,2017 to September,2017 by Appellant, the off season period observed by Appellant is August,2017 to October,2017, which proves that Appellant has wrongly opted off season period July,2017 to September,2017 and for that Appellant is well aware of its industrial process and had opted off season period. Here it is noted that Appellant had already changed off season period vide application dated 12.05.2017.

4.6. The question raised by Appellant regarding daily consumption data of meter as recorded by meter and collection of MRI data, Respondent has replied vide Para No.3.10(2). In this situation, it is viewed that requirement of MRI data by Appellant is only after receiving supplementary bill. Previously, Appellant had not demanded such type of data on receiving energy bill for the month of July,2017 for consumption of 21264 Kwh under off season period. It is a duty of Appellant to measure its activities by way of observing consumption under option of off season period to get benefit of seasonal category consumer.

- 4.7. In reference to Para 2.8(x) and GST data submitted by Appellant, for the month of July,2017 to September,2017 and observation of the same, it is seen that in the month of July,2017 sales quantity is recorded 53392 and GSTR-3B form of July,2017 shows total taxable value 5254841. It reveals that Appellant has utilized energy for production purpose.
- 4.8. Appellant is a HT category consumer and had opted off season since calendar year 2015 and 2016 as per report submitted by parties. On the grounds raised related with billing cycles and collection of meter retrieved data through MRI, Appellant is going to prove that Respondent has not followed the procedure as required as per tariff order, while on other side, Appellant has violated the option that he had opted while getting benefit under seasonal tariff and developed a present subject issue. It is noted that seasonal tariff is a special tariff option under original HTP-I tariff with having specified terms and conditions. As Appellant has not observed the specified terms and conditions as mentioned in tariff order under seasonal category consumer, Appellant is not entitled to get benefit of the same. Order passed by CGRF is acceptable.
- 4.9 I order accordingly.
- 4.10. No order as to costs.
- 4.11. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 29.12.2018.