

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

**CASE NO.61/2018  
(UNDER REVIEW)**

**Appellant:** Executive Engineer,  
Paschim Gujarat Vij Company Limited  
Division Office, Morbi-363642.

**Represented by:** Shri N.D.Panara, EE, PGVCL, Morbi Div. Office.

**V/s.**

**Respondent:** M/s. Sonata Ceramic Pvt. Limited,  
B/h. Dariyalal Resort, 8A-National Highway  
Panili Road, Morbi-363642.

**Represented by:** Shri Vikram Shah, Authorized representative.  
Shri V.V.Patel, Authorized representative.

**:::PROCEEDINGS:::**

- 1.0. The Appellant had submitted review representation aggrieving with the order No.264 dated 05.09.18 in case No. 61/2018 passed by Ombudsman. The hearing of this case was kept on 06.12.2018. Appellant has represented the case as under.
- ૨.૦. સુનવણી દરમ્યાન અરજદારે નીચે મુજબ રજૂઆત કરી.
- ૨.૧. અરજદારે વિદ્યુત લોકપાલના તા.૧૫.૦૯.૨૦૧૮ના હુકમ નં.૨૬૪ થી નારાજ થઈ Notification No.2/2011, Clause No.3.45 અન્વયે સદર હુકમને રીવ્યુ કરવા અરજ દાખલ કરી.
- ૨.૨. સામાવાળાનું, એટલે કે મે. સોનાટા સીરામિક પ્રાઇવેટ લિમિટેડનું વીજ જોડાણ અરજદારે તા.૦૧.૦૭.૨૦૦૪ ના રોજ release કરેલ છે. સદર વીજ જોડાણમાં વીજ જોડાણ ચાલુ કર્યા તારીખથી ડિસેમ્બર, ૨૦૦૯ સુધીના સમયગાળા દરમ્યાન night hours rebate ની માંગણી સામાવાળાએ કરેલ છે.

સદર રજૂઆતની વિદ્યુત લોકપાલ સમક્ષની સુનવણી દરમ્યાન થયેલ ચર્ચા અન્વયે સામાવાળા દ્વારા તા.૦૫.૦૯.૧૮ ના પત્રથી સદર વીજ જોડાણમાં સ્થાપિત મીટરના ચેકિંગ શીટની વિગતો રજૂ કરેલ, જેને પેરા નં. ૪.૬ માં નોંધેલ છે.

૨.૩. વિદ્યુત લોકપાલના હુકમમાં દર્શાવેલ આદેશ અન્વયે નીચે મુજબના મુદ્દા ઉપસ્થિત થાય છે.

મુદ્દા નં.૧:

નાઈટ રીબેટ ટેરીફમાં જે તે મહિનાના કુલ યુનિટના ત્રીજા ભાગના યુનિટ કરતાં નાઈટમાં જેટલા યુનિટ વધારે આવેલ હોય તેટલા યુનિટની રકમ એનર્જી ચાર્જમાંથી બાદ કરવામાં આવે છે, આથી દરેક માસના KWH યુનિટ અને નાઈટના યુનિટ જરૂરી છે.

સામાવાળાની કચેરી દ્વારા જે લેબોરેટરી ચેકિંગ શીટ અને બિલીંગનો ડેટા આપવામાં આવેલ તે મુજબ ચેકિંગ જે તારીખે થયેલ હોય તે દિવસના રિડિંગ તેમાં હોય, પરંતુ તેના પરથી દરેક માસના યુનિટ તેમાંથી મળે શકે નહીં.

મુદ્દા નં.૨:

નાઈટ રીબેટ માટે જે તે માસના Power Factor (P.F. Rebate/P.F. penalty) નાઈટ રીબેટની રકમમાં પાવર ફેક્ટરની પણ અસર આપવી પડે પછી નાઈટ રીબેટ આપી શકાય. પરંતુ મંથલી બિલીંગ ડેટા ન હોવાથી પાવર ફેક્ટરની ગણતરી મંથલી મળી શકે નહીં. આમ, નાઈટ રીબેટની દર માસની ગણતરી માત્ર ચેકિંગના ડેટાને આધારે થઈ શકે નહીં.

૩.૦. Respondent has represented the case as under.

૩.૧. Respondent M/s. Sonata Ceramic Pvt. Limited has filed his reply vide letter dated 05.11.2018. It is said that Clause No.3.45(1), under which review application is made, is as under:

3.45(1):

The Ombudsman may review its order either on its motion, at any time, or on the application of any of the parties to the original proceedings within 30 days of the order on the following grounds:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the person seeking the review or could not be produced by him at the time the order was made; or

The review can be asked only if new evidence is found after order is issued. In this case there is no new matter or evidence is produced by Appellant PGVCL and therefore Appeal for review is not eligible.

૩.૨. Appellant is trying to misguide with the matter which is not related with the order of Ombudsman. Respondent M/s. Sonata Ceramic Pvt. Limited had drawn attention on the fact that similar review appeal

was also filed before CGRF, Rajkot and same is rejected by Forum with noting as under:

“ઉપરોક્ત વિષય અને સંદર્ભ અનુસંધાને જણાવવાનું કે ફોરમ કમિટિ દ્વારા અપાયેલ હુકમ મુજબ ચુકાદો આપેલ છે, જે રજૂઆત અને રજૂ કરાયેલ દસ્તાવેજી પેપર્સ મુજબ આપેલ છે અને પીજીવીસીએલ પાસે ડેટા ઉપલબ્ધ ન હોઈ જીઈઆરસીના વિનિયમો, ૨૦૧૧, જાહેરનામા નં. ૨/ ૨૦૧૧ ના મુદ્દા નં.૨ ના પેટા મુદ્દા નં.૬૨, એટલે કે ૨.૬૨ મુજબની વિગતે આપના દ્વારા કરાયેલ રીવ્યુ અરજી અત્રેના ફોરમ દ્વારા ચલાવી ન શકાય, તેમ ફોરમ કમિટિ દ્વારા નિર્ણિત થયેલ છે.....”

It is stated that Appellant PGVCL is well aware with the grounds for review of appeal, but to misguide the Ombudsman and to delay the procedure for granting refund to Respondent M/s. Sonata Ceramic Pvt. Limited, review appeal is filed by Appellant PGVCL, which is not maintainable.

- 3.3. Respondent had pointed out that non-availability of data related problem arose due to inefficiency of Appellant and consumer cannot be punished for the mistake of the Distribution Licensee i.e. Appellant. It is a duty of Distribution Licensee to collect required data for the purpose of billing every month. The Appellant is very well aware about night charge concession during the period under consideration as same is made available to selected consumer. It is submitted that as per Clause No. 6.5 of Supply Code an average can be considered when data is not available for any reason.
- 3.4. Respondent M/s. Sonata Ceramic Pvt. Limited had submitted statement of energy consumption, average data and percentage units eligible, per night rebate per month with calculation based on the said formula and period between two checking sheet with available readings and stated that the refund amount can be practically calculated.

Statement showing the details of night rebate calculation as per Data given by PGVCL:

Sr No	Date	Present KWH reading	Past KWH reading	Diff.	MF	Total KWH	1/3 of Total KWH	Total night KWH	Night Unit rebate	% night unite rebate
1	01.07.04	64								
2	11.12.06	352718	64	352654	3	1057962	352654	359745	7091	0.67
3	13.08.07	647745	352718	295027	3	885081	295027	318258	23231	2.62
4	09.01.08	789948	647745	142203	3	426609	142203	155832	13629	3.19
5	14.05.09	1021792	789948	231844	3	695532	231844	274947	43103	6.20
6	03.03.10	1253691	1021792	231899	3	695697	231899	275817	43918	6.31
Sr. No	Date	Present night reading	Past night reading	Diff.	MF	Total night KWH				
1	01.07.04	1					275	CTPT 15/5		
2	11.12.06	119916	1	119915	3	359745	300			
3	13.08.07	226002	119916	106086	3	318258	300			
4	09.01.08	277946	226002	51944	3	155832	300			
5	14.05.09	369595	277946	91649	3	274947	300			
6	03.03.10	461534	369595	91939	3	275817	300			
Sr No	Date	Present KVAH reading	Past KVAH reading	Diff	MF	Total KVAH	Total KWH	PF= KWH/ KVAH	IMP Remarks	
1	01.07.04	101							(1) E/D was free for first five years, so we are not entitled for E.D. refund. (2) Also we are agree to deduct average P.F. rebate charges.	
2	11.12.06	360555	101	360454	3	1081362	1191858	0.990		
3	13.08.07	681612	360555	321057	3	963171	2434932	0.976		
4	09.01.08	829095	681612	147483	3	442449	1788660	0.970		
5	14.05.09	1077721	829095	248626	3	745878	1269120	0.994		
6	03.03.10	1325606	1077721	247885	3	743655	1181710	0.990		

3.5. On the above mentioned ground, Respondent M/s. Sonata Ceramic Pvt. Limited has requested that not to admit the review appeal. It is prayed to direct the Appellant PGVCL to release night tariff concession amount as per the order issued by Ombudsman.

**::: 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, Respondent has taken an objection for review of Ombudsman order mentioning Clause 3.45 of Notification No.2 of 2011. In present case, Appellant had previously said that old billing data is not available. Thereafter, during the course of hearing it was directed to Appellant PGVCL to produce available billing data for respective period. Appellant had produced meter checking sheet and

meter reading sheet data based on the installations were checked. On that data, Appellant was directed to give night hours rebate to Respondent vide para No. 4.8 of Ombudsman order dated 15.09.2018.

- 4.2. The arguments made by Respondent as per Para No. 3.2, along with observations pointed out by CGRF for other case. The said grounds are not having concerned with present case and hence it is not accepted.
- 4.3. It is studied in detail for deriving night hours eligible consumption with the help of calculation methodology and rebate on it. In consideration of the same, it is seen that energy parameters are required to be recorded along with night hours consumption as recorded by meter.

Night hours rebate can be given on the bases that records of night hours consumption is higher than  $1/3^{\text{rd}}$  of total energy consumption during the billing period. Here in this case, period of night hours rebate demanded by Respondent is for the period July,2004 to December,2009. For this period, Appellant, PGVCL is not having monthly billing data as mentioned in Para No.2.3.

- 4.4. It is right to say that base on checking data as per checking sheet produced by Appellant i.e. PGVCL, and meter reading data, directives were passed vide Para No.4.8 of Ombudsman order. But in view of logic adopted for granting night hours rebate, it is required to have energy parameters data for every billing cycle for the period July,2004 to December,2009. While going through the review appeal, above error came in the knowledge and hence it is said to be a apparent error on face of record.

In view of above observations, it is a matter of new and important aspect in deciding the value of eligible night hours consumption for granting concession as per the relevant provisions of tariff order.

Taking above aspect and in consideration of Clause 3.45(i) and (iii), subject matter is accepted under review filed by Appellant i.e. PGVCL.

- 4.5. It is also noted that night hour rebate was granted by Respondent based on the available energy parameters data with him for the period January,2010 to April,2016.

Respondent is a consumer of Appellant since long period under HT category and receiving energy bills since release of connection. He might be well aware with different component of energy parameters and billing on that parts. On part of night hours concession, Respondent had raised the issue for refund, after long time after availing of electric supply. On other side, it is a duty of Appellant to bill the Respondent as per the specified terms and conditions as approved by GERC in their tariff order in the relevant period.

- 4.6. In the order issued on 16.02.2018 in respect of case No.128/2017, M/s. Sadbhav Ceramics V/s PGVCL, Ombudsman had taken a stand to grant night hours rebate on the basis of available consumption data with Appellant i.e. PGVCL and to implement the directives of CGRF.

- 4.7. The subject issue herein is little different than that of case No.128/2017. In both cases, Respondent has asked night hour rebate after a long period after getting electricity supply. In case No.128/2017, CGRF has already issued directives to give night hour concession to concern consumer and on part of implementation, the grievance was heard by Ombudsman and it was directed as per above Para No.4.6, while in present case, at initial stage, Appellant, PGVCL has submitted that relevant data (energy parameters) for the period of July,2004 to December,2009 are not available with him and hence Appellant is not in a position to give refund against night hours consumption. In the data produced by Appellant and as mentioned in Para No.4.6 of original order, is about installation checking sheet and meter reading data at different interval of time,

but it is not monthly billing data, so based on this, night hours rebate cannot be actually derived. The arguments made by Respondent, i.e. M/s. Sonata Ceramic Pvt. Limited, with taking the average percentage for the night hours consumption based on the checking sheet for the period July,2004 to December,2009, is not valid in absence of correct billing data.

- 4.8. In the above circumstances, to get the night hours rebate for the period July,2004 to December,2009, Respondent should produce copy of bills to Appellant and on verification of said bills, Appellant may decide night hours consumption and to refund the night hours rebate for disputed period, and if any amount is to be refunded, it should be adjusted in the next monthly billing.
- 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: 18.01.2019.