

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

CASE NO. 66/2018

Appellant: M/s. Satkar Food & Beverages
Shed No.43 to 49, Block No.288paiki
Krishna Estate, Pancharatna Ind. Estate
Changodar-382213. Ta.Sanand. Dist.Ahmedabad.

Represented by: Shri D.S.Doshi, Authorized representative

V/s.

Respondent: Executive Engineer,
Uttar Gujarat Vij Company Limited
Division Office, Arohi Arcade,Bopal-380058. Ahmedabad.

Represented by: Mrs. B.M.Ghai, DE, UGVCL, Bopal Divn. Office

PROCEEDINGS

- 1.0.** The Appellant had submitted representation aggrieving with the order No.5681 dated 04.06.2018 passed by the Consumer Grievances Redressal Forum, Uttar Gujarat Vij Company Limited, Sabarmati, in case No. UG-01-012-2018-19. The representation was registered at this office as Case No.66/2018. The hearing of this case was kept on 09.08.2018.
- 2.0.** Appellant has represented the case as under.
 - 2.1. Appellant is a HT consumer of Respondent bearing consumer No.29852. The connection is situated at Shed No.43 to 49, Block No.288 paiki, Krishna Estate, Changodar, Taluka Sanand, having contracted demand of 150 KVA under HTP-I tariff.

2.2. Aggrieved by the CGRF order, Appellant has filed appeal before Ombudsman and stated as under:

(1) The actual demand of HT connection of Appellant was exceeded as below during the financial year 2016-17.

| Month | Contract Demand KVA | Actual Demand KVA | Excess Demand beyond Contract Demand |
|-----------|---------------------|-------------------|--------------------------------------|
| Apr.2016 | 150 | 167 | 17 |
| May,2016 | 150 | 171 | 21 |
| June,2016 | 150 | 174 | 24 |
| July,2016 | 150 | 170 | 20 |

Respondent had conveyed Appellant vide letter dated 10.01.2017 that demand was exceeded as stated above, and intimated to restrict contracted demand or to apply for extension of load. Appellant has followed the instruction of Respondent and actual demand was never exceeded but always remained less than 85% of contracted demand. It was not mentioned by Respondent in his letter that if Appellant restricts contracted demand Respondent will issue an estimate for revised contracted demand i.e additional KVA.

(2) After a long span of 11 months after issue of notice dated 10.01.2017, Respondent had issued an estimate for additional load. It is submitted that as per GERC norms Security Deposit is to be revised on completion of each financial year and Respondent is doing it in the month of May or June. Here there was an inordinate delay by Respondent.

(3) It is stated that as per Clause No.4.95 of Supply Code,2015, first of all Licensee shall issue 30 days' notice to the consumer for submitting an application form for enhancement of load. If there is no response from the consumer by end of notice period, 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.

(4) Vide letter dated 18.12.2017 Appellant has received Suo-Moto estimate for additional 21 KVA contracted demand and it has been included in energy bill for the month of February,2018.

It is stated that actual drawl of Appellant is less than 85% of contracted demand since more than one year after receipt of letter dated 10.01.2017 from Respondent and Appellant is facing huge financial crunch. Appellant is not able to bear the financial burden. Further it is stated that looking to the consumption the Security Deposit amount of Rs. 1,11,942/- is refunded by Respondent vide letter dated 08.08.2017.

(5) It is submitted that earlier due to lack of knowledge of rules Appellant had exceeded actual demand than contracted demand. But since receipt of notice dated 10.01.2017, Appellant is obeying the rules and therefore Appellant has requested Respondent to cancel the estimate dated 18.12.2017, but it was not accepted by Respondent.

(6) Appellant has referred the Clause No.2.21 of GERC Notification No.2 of 2011 and stated that after receipt of notice from Respondent regarding contracted demand, he is obeying the rules and therefore as a natural justice Suo-moto estimate needs to be cancelled.

2.3. Appellant has clarified the points against the conclusion made by CGRF in its order.

(1) Vide notice dated 16.08.2016, Respondent has intimated Appellant as under:

“The Appellant was requested to apply for extension of load within 30 days on receipt of this notice. If, he will fail to submit an application form for enhancement of the load, UGVCL start the procedure for enhancing his contract demand without giving further notice and all applicable charges will be liable to pay for regulation of the enhanced demand.”

Thirty days notice was completed on 14.09.2016. As per said notice Respondent was supposed to start the procedure for enhancing the contracted demand without giving further notice. But Respondent has not done so and issued further notice on 10.01.2017 conveying Appellant either to restrict contracted demand or to apply for extension of load.

2.4. Appellant has referred the Clause No. 4.95 of Supply Code,2015 and submitted that it is mandatory for Licensee to start procedure for enhancing contracted demand if there is no response from Appellant by end of notice i.e. 14.09.2016, but Respondent has not followed the provisions of Supply Code by not starting such procedure immediately after 14.09.2016. On contrary, Respondent has issued another notice on 10.01.2017 intimating Appellant either to restrict contracted demand or to apply for extension of load. It was further mentioned in the said notice that "if the same will be reoccurrence in the bill of January,2017, Respondent will not have any other option but to disconnect the power supply."

Therefore, on issuance of notice dated 10.01.2017, earlier notice dated 16.08.2016 supersedes automatically. Further, in the notice dated 10.01.2017 there was nothing mentioned about extension of load with suo-moto proceedings. It was mentioned that power supply would be disconnected in case of reoccurrence. Thus, notice dated 16.08.2016 became null and void due to non-starting procedure for enhancing contracted demand on completion of notice period and issuance of further notice dated 10.01.2017.

- 2.5. It is submitted that after a long span of 17 months from the date of notice dated 16.08.2016 and long span of about eight and half months of completion of previous financial year, Respondent has issued an estimate for additional load.
- 2.6. It is stated that Appellant had not paid Suo-moto estimate dated 18.12.2017 and represented before CGRF vide letter dated 11.04.2018, meanwhile Respondent had included estimated amount in the energy bill. To save for disconnection of power supply there was no any alternative for Appellant but to pay the estimated amount under protest. Therefore, Appellant had paid the estimated amount under protest and thereafter Respondent had issued Suo-moto release order for additional 21 KVA on 19.04.2018.
- 2.7. It is submitted that if immediately after completion of 30 days notice period from the notice dated 16.08.2016, Respondent would have

taken action for Suo-moto procedure for extension of load, Appellant would have been eligible for very shortly for reduction of load. In such situation, additional load would have been released by 01.04.2017.

- 2.8. It is submitted that Respondent has not followed Supply Code of GERC in right way and base taken by CGRF for deciding grievance of Appellant has no rational and against the interest of consumer.
- 2.9. Appellant has prayed as under:
 - (1) To direct the Respondent to cancel Suo-moto estimate and release order for additional 21 KVA and to refund the amount paid against the estimate.
 - (2) To consider deemed release of additional load of 21KVA (150KVA to 171KVA) w.e.f. 01.04.2017 with payment of differential demand charges without Delay Payment Charges.

3.0. Respondent has represented the case as under.

- 3.1. (1) Appellant is HT consumer, having contracted demand of 150 KVA in the financial year 2016-17. A notice was issued for violation of contracted demand vide No.6086 dated 16.08.2016 and 233 dated 10.01.2017.
- (2) Suo-Moto estimate was issued to Appellant vide letter No.12495 dated 18.12.2017.
- (3) As Appellant had not paid the estimated amount within a period of one month, the estimated amount of Rs.3,37,395/- was included in ensuing bill i.e. February,2018.
- (4) Appellant had represented vide letter dated 01.03.2018 to Chief Engineer(Op.) against cancellation of Suo-Moto estimate. Corporate Office of Respondent, vide letter No.732 dated 28.03.2018 has intimated to take action as per provisions of Supply Code,2015.
- (5) Appellant was intimated by Division Office vide letter No.3462 dated 09.04.2018 to pay the Suo-Moto estimate within seven days.

- (6) Appellant has paid the Suo-Moto estimated amount on 13.04.2018 and release order No.4060 dated 19.04.2018 was issued by Respondent.
- (7) As Appellant failed to submit application form for enhancement of load as per Notice issued vide letter No.6086 dated 16.08.2016, actions were initiated and Suo-Moto proposal was processed as per Clause No.4.95 of GERC Notification No.4 of 2015.
- (8) The action taken by Respondent is as per Supply Code,2015.

::: 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 2.1 Appellant is a HT consumer of Respondent, having contracted demand of 150 KVA.
- 4.2. As per Para 2.2(1), Appellant's contracted demand exceeded in comparison with agreemental contracted demand. The consecutive occurrence of contracted demand observed exceeded for the duration of April,2016 to July,2016 beyond the prescribed limit of 5% of contracted demand, as per Clause No. 4.95 of Supply Code,2015.
- 4.3. To deal with this issue it is necessary to refer Clause No. 4.95 of Supply Code,2015, which is as under:

“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."

Respondent had issued 30 days notice to the Appellant on 16.08.2016 first time as mentioned in Para 2.3(1), but after completion of notice period of 30 days, Respondent had not started suo-moto procedure for enhancement of load and on other side Appellant had not submitted application form for enhancement of load as per recorded maximum demand in the meter.

Again Respondent had issued notice on 10.01.2017 mentioning regarding excess recording of contracted demand for the month of April,2016 to July,2016 and intimated Appellant to restrict his contracted demand as per agreemental contracted demand or to apply for enhancement of load. In the said notice option for disconnection of supply warn by Respondent in case of reoccurrence of excess recording of contracted demand in the month of January,2017.

From the above it is on records that Respondent has acted as per Clause 4.95 of Supply Code,2015 and intimated Appellant to apply for enhancement of load within 30 days, but Appellant had not demanded additional load till issuance of second notice dated 10.01.2017 i.e. more than four and half months from first notice. In the Notice dated 10.01.2017 Respondent had intimated Appellant to restrict contracted demand or to apply for additional load. But Appellant had not registered application for extension of load as per recorded contract demand till issuance of estimate dated 18.12.2017 under Suo-moto procedure. It is proved that Appellant had ignored the notice of Respondent for enhancement of load.

- 4.4. It is mandatory duty casted by Clause No. 4.95 of Supply Code,2015 that Appellant has to observe his contracted demand to be recorded within permissible limit of 5% of its contracted demand and in violation of the same for four times in the financial years, Respondent should

have to issue a 30 days notice to Appellant for submission of application form for enhancement of load. In this case Appellant has not observed his contracted demand within permissible limit of 5% of its contracted demand and after receipt of first notice dated 16.08.2016 he had not applied for enhancement of load.

- 4.5. It is on records that on receipt of suo-moto estimate dated 18.12.2017 Appellant had not paid the same within one month and later on filed complaint before Chief Engineer of Respondent on 01.03.2018 for cancellation of estimate, which was rejected by Respondent vide letter dated 09.04.2018 and the Appellant was intimated to pay the estimated amount within seven days otherwise action will be taken as per company's rules. Thereafter Appellant had filed grievance before CGRF on 11.04.2018 against the action of Suo-moto estimate issued by Respondent and later on it was paid by Appellant on 13.04.2018 and after completion of work Respondent had issued Release Order vide letter dated 19.04.2018.
- 4.6. It is on records that before CGRF Appellant had prayed as under:
 - (1) To direct UGVCL to cancel Suo-moto estimate for additional 21KVA for HT connection No.29852.
 - (2) To direct UGVCL not to insist for payment of above estimate and not to take any coercive actions due to non-payment of it till order.

While before Ombudsman, Appellant has prayed as per Para 2.9. CGRF has decided the grievance and rejected the prayer of Appellant. In present appeal Appellant has prayed to consider deemed release of additional load of 21 KVA i.e. 171 KVA w.e.f. 01.04.2017 with payment of differential demand charges without delay payment charges. This prayer of Appellant is different one than which was made before CGRF. According to Clause 4.95 of Supply Code,2015, actions initiated by Respondent to issue notice to Appellant and to issue estimate for enhancement of load of 21 KVA vide letter dated 18.12.2017 are as per regulatory norms. It is only observed that timely action for Suo-moto procedure and issue of estimate was not initiated by Respondent.

Respondent is directed to take action as per provisions of Clause 4.95 of Supply Code,2015 in stipulated time frame in such type of cases.

- 4.7. On part of prayer of Appellant as mentioned in 2.9(2), on one side Appellant has submitted that his company has having financial crunch and not able to make payment of charges of additional load and on other side by making above prayer shown readiness for payment of differential demand charges without delay payment charges, which is contradictory. At initial point of time Appellant has not submitted application form for enhancement of load after violating contracted demand for consecutive four months as well as receipt of notices. This is called a non-cooperation in following the instructions as per regulatory norms.

In above circumstances, prayer made by appellant is rejected in toto.

- 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: 07.09.2018.