



પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ

ગ્રાહક તકરાર નિવારણ ફોરમ

ઝોનલ કચેરી, "વીજ સેવા સદન", ચાવડી ગેટ, ભાવનગર.

CIN : U40102GJ2003SGC042908

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ક્રમાંક: બીઝેડ/ફોરમ/૯૫/૧૯-૨૦/ 1889

તારીખ: 6 JUN 2020

આર. પી. એ. ડી.

પ્રતિ,
મે. મધુ સિલ્હીકા પ્રા. લિ.
વરતેજ,
ભાવનગર.

કેસ નં-૯૫/૧૯-૨૦

મો. નં-૦૨૭૮-૨૫૪૧૭૬૬, ૨૫૪૮૦૦

વિષય : મે. મધુ સિલ્હીકા પ્રા. લિ. દ્વારા એચ. ટી. કને. નં-૨૩૮૬૫ - કરવામાં આવેલ ડિમાન્ડ ચાર્જ અને તેની ઉપર લાગેલ ઈલે. ડ્યુટી ની રકમ જમા આપવા અંગેની રજૂઆત બાબત.

- સંદર્ભ :** (૧) આપનો પત્ર તા. ૬/૧૧/૨૦૧૯ અને ૨૫/૧૧/૨૦૧૯ જે અત્રેની કચેરીને મળ્યા તા. ૨૭/૧૧/૨૦૧૯.
(૨) અત્રેની કચેરીનો પત્ર નં. બીઝેડ/ફોરમ/૯૫/૧૯-૨૦/૪૯૬૭ તા. ૧૦/૧૨/૨૦૧૯.
(૩) અત્રેની કચેરીનો પત્ર નં. બીઝેડ/ફોરમ/૯૫/૧૯-૨૦/૫૮૦ તા. ૦૩.૦૨.૨૦.
(૪) અત્રેની કચેરીનો પત્ર નં. બીઝેડ/ફોરમ/૯૫/૧૯-૨૦/૮૨૪ તા. ૧૯.૦૨.૨૦.

જાહેરજાહેર

શ્રીમાન,

આપની ઉપરોક્ત વિષયના સંદર્ભમાં આપના દ્વારા ગ્રાહક ફરિયાદ નિવારણ ફોરમ, ભાવનગર સમક્ષ કરેલ રજૂઆતના સંદર્ભમાં આપશ્રીને ફોરમ સમક્ષ તા. ૦૩/૦૩/૨૦૨૦ નાં રોજ સાંભળવામાં આવેલ. જેના સંદર્ભમાં ગ્રાહક ફરિયાદ નિવારણ ફોરમ દ્વારા આપવામાં આવેલ ચુકાદો આ સાથે સામેલ છે.

આપશ્રીની જાણ સારૂ.

(એમ. પી. સોલંકી)

કન્વીનર,

ગ્રાહક ફરિયાદ નિવારણ ફોરમ
પીજીવીસીએલ., ઝોનલ કચેરી ભાવનગર.

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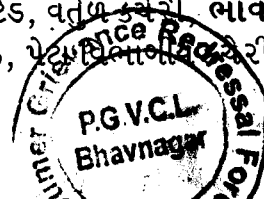
■ **બિડાણ:-** ઉપર મુજબ.

પ્રતિ: કાર્યપાલક ઈજનેરશ્રી,
પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ
વિભાગીય કચેરી, ભાવનગર શહેર-૨.

.....ગુજરાત વિદ્યુત નિયંત્રક આયોગના જાહેરનામા નં. ૨/૨૦૧૯ ની કલમ નં. ૨.૫૪ મુજબ સદર હુકમનાં પાલન અંગે થયેલ કાર્યવાહીનો જરૂરી અહેવાલ અત્રેની ફોરમ કચેરીને ફરજીયાત પાઠવવાનો રહેશે.

■ **નકલ રવાના:-**

- ૧) શ્રી અધિક્ષક ઈજનેર, પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ, વર્તુલ કચેરી ભાવનગર.
૨) શ્રી નાયબ ઈજનેર, પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ, પેટાકચેરી, ચિત્રા.
...આપની જાણ તથા જરૂરી કાર્યવાહી અર્થે.



(ગ્રાહક ફરિયાદ નિવારણ ફોરમ, પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ, ભાવનગર સમક્ષ)

ગ્રાહક ફરિયાદ નિવારણ ફોરમ,
પ.ગુ.વી.કં.લિમિટેડ, ઝોનલ ઓફિસ,
"વીજ સેવા સદન", ચાવડી ગેટ,
ભાવનગર.

કેઈસ નંબર - ૯૫/૧૯-૨૦

વાદી :- મધુ સિલીકા પ્રા.લિ., વરતેજ, ભાવનગર.

◇ વિરુદ્ધ ◇

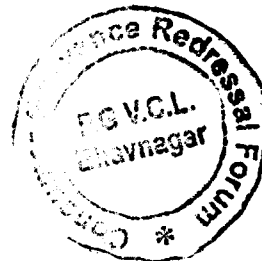
પ્રતિવાદી :- પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ

◇ રજૂઆતની તારીખ:- ૧૪.૦૨.૨૦ અને ૦૩.૦૩.૨૦. ◇

હાજર રહ્યા :- મધુ સિલીકા પ્રા.લિ. વતી અધિકૃત પ્રતિનિધિ શ્રી વી.એલ. શાહ
પ્રતિવાદી :- શ્રી પી.જી.પરીખ, કાર્યપાલક ઈજનેર, શહેર વિભાગીય કચેરી-૨, ભાવનગર.
(પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ વતી)

મે.મધુ સિલીકા પ્રા.લિ. દ્વારા એચ.ટી.કને. નં-૨૩૮૬૫ - કરવામાં આવેલ ડિમાન્ડ ચાર્જ અને તેની ઉપર લાગેલ ઈલે.ડ્યુટી ની રકમ જમા આપવા અંગેની રજૂઆત બાબતની રજૂઆત કન્વીનરશ્રી, ગ્રાહક ફરિયાદ નિવારણ ફોરમ, ભાવનગરને મળતાં, ફોરમે તેનાં ફરિયાદ રજીસ્ટરમાં ક્રમાંક : ૯૫/૧૯-૨૦ થી નોંધી તેનાં યોગ્ય નિરાકરણ માટે અધિક્ષક ઈજનેરશ્રી, વર્તુળ કચેરી, ભાવનગરને પત્ર નં.બીઝેડ/ફોરમ/૯૫/૧૯-૨૦/૪૯૬૭ તા.૧૦.૧૨.૧૯ થી વાદીશ્રીની જાણ હેઠળ મોકલી આપેલ.

આમ છતાં, ફોરમે વાદીશ્રીને તેમની ફરિયાદ બારામાં લેખીત / મૌખિક રજૂઆત કરવા તા.૧૪.૦૨.૨૦ તેમજ તા.૦૩.૦૩.૨૦૨૦ ના રોજ ઉપસ્થિત રહેવા જણાવેલ. જેમાં વાદી મધુ સિલીકા પ્રા.લિ. વતી અધિકૃત પ્રતિનિધિ શ્રી વી.એલ. શાહ હાજર રહેલ તથા પ્રતિવાદી તરફે શ્રી પી.જી.પરીખ, કાર્યપાલક ઈજનેર, શહેર વિભાગીય કચેરી-૨, ભાવનગર ઉપસ્થિત રહેલ.



Representation by Appellant : M/S. Madhu Silica Pvt.Ltd.

Complain -1

We are a Company registered under company's act and engaged in manufacturing of chemical products and having our subject plant situated at Plot No. 147 and 7 to 12, Vartej GIDC, Opp. 220 KV S/S, Vartej - 364000 Tal & Dist. Bhavnagar.

We are EHT Consumer with PGVCL (City-2) Division Bhavnagar having connection No.23865 and contract demand of 6750 KVA under HTP1 tarriff.

We are also receiving power from entities other than Distribution Licensee PGVCL and defined as open access customer in line with GERC notification 3 of 2011. We had traded power under bilateral agreement of from energy exchange. To Promote renewable energy, we have established wind power generators also.

On scrutiny of bills by our audit department, it is found that the demand charges collected by the distribution licensee PGVCL is not in line with GERC open access regulation notified vide notification 3 of 2011. So, we had asked for the refund vide our letter dtd. 01.10.2018 (Enclosure - 2) for such additional payment collected by respondent by wrongly charging the maximum demand charges for the month as recorded in place of maximum demand charges of energy supplied by PGVCL only.

No reply is received from the respondent in One year. So, we again reminded the respondent vide letter dtd. 06.11.2019 (Enclosure - 3) and as per the procedure our reminder is considered as application to Divisional level at CGRC committee as case No.1 of 2019-20. The CGRC had issued an order dtd.11.11.2019 (Enclosure - 4) and denied our plea or refund, so we decided to file an application in CGRF at Bhavnagar.

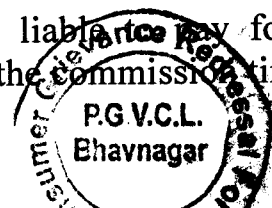
Fact of the Matter :

(1) As per indian Electricity Act-2003 section 42 (2) the distribution licensee should allow open access to its consumers and accordingly, gujarat Electricity Regulatory Commission GERC had formed GERC (Terms and Condition of Intra state Open Access) Regulation 2011 vide Notification 3 of 2011.

(2) As per regulations 32 (3) of above mentioned notification.

In case of deviation by open access customer who is also a consumer of distribution licensee, the difference between the applicable scheduled open access load and actual drawl shall be accounted block wise and shall be settled in accordance with the following.

- The energy consumption of such customer shall be recorded in 15 minutes time block.
- In case of actual energy drawl is more than the scheduled energy drawl but within contracted demand, customer shall be liable to pay for such over drawl at the applicable tariff rates as determined by the commission time to time.



- In case of actual energy drawl is more than the scheduled energy and drawl and also the more then contracted demand, payment for the capacity above the contract demand shall have to be made at the penal rate as specified by the commission for such categories of customers in the tariff scheduled. As per above the demand charges, if the actual energy drawl is more than the scheduled energy drawl but within the contract demand, the customer has to pay the demand charges as per applicable tariff.

In other words, the open access customer has to pay the demand charges for the demand drawn from distribution licensee (in our case PGVCL) if the actual energy drawl is within the contract demand.

3. In our case the respondent The Exe Eng city-2, PGVCL, Bhavnagar has directly considered the maximum demand recorded in the meter for billing purpose without differentiating between the actual recorded maximum demand and maximum demand for the power supplied by PGVCL.

4. In many cases the demand supplied from the PGVCL is less than the actual maximum demand. In all such cases the bill is submitted with actual maximum demand as billing demand. In fact the billing demand should be maximum demand recorded for the power supplied by PGVCL only. This is in violation of GERC Regulations for open Access Notification 3 of 2011.

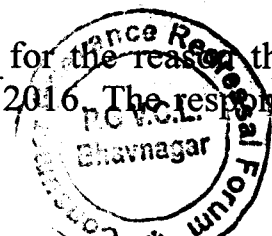
5. The order in case No.1 of 2019-20 of CGRC, PGVCL City-2 Division Bhavnagar is not in line with the regulations and should be considered null and void on following grounds.

a. In his order CGRC, PGVCL, City-2, Bhavnagar had said that the regarding the matter, the local office had asked for the guidance from respondent's corporate Office and same was received by them vide letter No. PGVCL/REV/18-19/2123 dtd. 12.02.2019. It is not mentioned by the respondent that why no reply of our application is submitted after nearly 9 months of receiving the guidelines from the higher authorities. At this stage you are requested to direct respondent to give us a copy of the guidelines, so that we can study the same and submit our comments on the same.

b. As per order we had asked for the refund for the period from Jan-2014 to July-2016 which is after period of 3 years, so it is not refundable. He has not mentioned the GERC regulation, which is not allowing such refund.

c. As per order, The EE, PGVCL, City-2 had asked the guidelines from the circle office. A copy of the said letter is required by us before final hearing of matter in your forum. The guideline given by circle office is not delivered to us. Please ask respondent to submit the same to us.

d. As per order, our plea is rejected only for the reason that the case is related to Refund for the bills issued in year 2014 to 2016. The respondent should confirm that



as per the respondent company, no claim is sustainable from either side if the same is made by either party after lapse of 2 years.

e. The CGRC, of City-2 Division authority refrain from the actual matter of refund and not give comment on the main issue whether refund should be granted to us or not as per regulations, particularly Notification 3 of 2011.

6. Regarding the matter, a letter was sent as directive to the Superintending Engineer, C O , PGVCL, Morbi by The Addl. Chief Engineer(R&C) Corporate office, Rajkot vide No. PGVCL/R&C/11926 dtd. 30.12.2016 explaining that as per related GERC regulations the energy bills of open access customer should be submitted considering the maximum demand recorded for supply made by PGVCL only. In line with that directive, the bills are revised or issued in Morbi circle of PGVCL, by considering PGVCL maximum demand as billing demand. Hon' CGRF is requested to confirm the same from the Morbi circle as billing methodology and billing circulars are supposed to be same for all distribution companies under GUVNL in Gujarat state.

7. Regarding the stand taken by the respondent that refund application cannot be entertained if the same is asked after 3 years from the date of billing is error on face of the record. There is no such provision in supply code 2015 or any other Regulations by GERC.

The Electricity Ombudsman of Gujarat in his order in case No. 63 of 2018 M/S. Sky ceramics private limited V/S Executive Engineer, PGVCL, Morbi has granted refund from the date of release of connection in 2008.

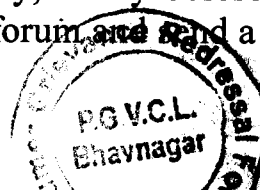
Point No.4.8 of his order says that,

" 4.8... As per para No.4.6 records, of connections of appellant are available with respondent since release of connection. Respondent has already installed poly phase meter at the time of release of said connections. Therefore, concession for use of electricity during night hours can be given to the appellant as per the tariff orders. Respondent is directed to grant night hours rebate from the date of release of connection to December - 2008 on the basis of consumption data of appellant as per meter checking sheet and meter reading sheet as produced."

According to above order the refund can be granted from the date of wrong billing.

: Our prayer.:

- a) You are requested to direct the respondent to submit copies of all the correspondence including guide lines issued by circle office and corporate office in response to our application for refund of demand charges. A copy of directive from ACE(R&C), Corporate office, PGVCL, Rajkot dtd. 30.12.2016 should also be made available to us.
- b) Please direct respondent to file reply, if any before reasonable time from the date of hearing of the matter in the forum and send a copy to us in advance.



- c) All the bills where the maximum demand recorded is more than the maximum demand for power supplied by PGVCL in a particular month should be revised from date of granting open access to our connection in line with GERC regulations and tariff order.
- d) The difference of revised bills with respect to bill paid by us should be refundable with interest till the same is materialized in our account.
- e) Any other relief the CGRF considered in the matter should be granted.

☛ **પ્રતિવાદીશ્રીની રજૂઆત:- તેમની રજૂઆત છે કે,**

- ૧.૧ સદર ઈએચટી કનેક્શન નં-૨૩૮૬૫ મે.મધુ સિલીકા પ્રા.લી. ના નામે પ્લોટ નં-૧૪૭, જીઆઈડીસી, વરતેજ, જી.ભાવનગર ખાતે ધરાવે છે. જે યુનિટ તા. ૧૯.૦૧.૨૦૧૦ થી કાર્યરત છે.
- ૧.૨ સદર કનેક્શન કોન્ટ્રાક્ટ ડિમાન્ડ ૨૦૦ કેવીએ થી રીલીઝ કરવામાં આવેલ. ગ્રાહક દ્વારા સમયાંતરે લોડ વધારો કરતા હાલ જુલાઈ-૨૦૧૯ થી સદર કનેક્શનમાં કોન્ટ્રાક્ટ ડિમાન્ડ ૮૨૫૦ કેવીએ ધરાવે છે.
- ૧.૩ ગ્રાહકની તા. ૧/૧૦/૨૦૧૮ ની અરજી ના સંદર્ભે ૮૫ % થી વધુ નોંધાયેલ ડિમાન્ડ ચાર્જ અને એક્ચ્યુઅલ ડિમાન્ડ વચ્ચેના તફાવતની રકમ રીફંડ આપવા માટે અત્રેની કચેરી દ્વારા વર્તુળ કચેરીને માર્ગદર્શન માટે મોકલવામાં આવેલ.
- ૧.૪ સદર કનેક્શન માં જાન્યુઆરી-૨૦૧૪ થી જુલાઈ-૨૦૧૬ ના સમયગાળા દરમિયાન રીફંડ માંગવામાં આવેલ છે.
- ૧.૫ કોર્પોરેટ ઓફીસ, રાજકોટ ની ગાઈડ લાઈન પત્ર નં- PGVCL/REV/18-19/2123 dtd.12.02.2019 મુજબ ઓપન એક્સેસ જાન્યુઆરી-૨૦૧૪ થી જુલાઈ-૨૦૧૬ નો સમયગાળો ત્રણ વર્ષ થી વધારે એટલે કે, ટાઈમ બાર હોવાથી ગ્રાહકે માંગેલ રકમ રીફંડ મળવાપાત્ર નથી.
- ૧.૬ જે આપ સાહેબની જાણ સારૂ તથા યોગ્ય થવા સારૂ.

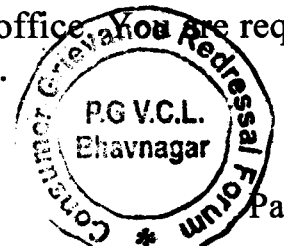
☛ **Representation by Appellant : M/S. Madhusilica Pvt.Ltd.**

Representation -2 Dtd.14.02.20.

We are further to our subject application and reply of Respondent as per above referred (2) addressed to you with a copy marked to us.

In the above referred letter, the Respondent had said that in line with guideline provided from Corporate office Rajkot letter No. PGVCL/REV/18-19/2123 dtd.12.02.2019, the refund is asked for open access January- 2014 to July-2016 is more than 3 years old, so time barred and cannot be processed.

A copy of the letter is not forwarded to us. In our application to CGRF also we asked for the copy of the above mentioned letter from corporate office. You are requested to direct the respondent to hand over a copy of the letter to us.



In the reply, it is not mentioned that under which provision of GERC regulations, the refund is subjected to approval from corporate office. Otherwise, the respondent should be directed to submit the internal circular of PGVCL which makes it compulsory to submit such refund case for direction from corporate office.

Also, for sake of transparency, a copy of the proposal sent to corporate office should be made available to the consumer. We request CFRF to direct the respondents accordingly.

The Respondent had refrained from commenting on,

- (a) Provision of regulation 32.3 of GERC Open Access Regulation 3 of 2011.
- (b) GERC Regulations which bars for entertaining any application for refund asked after 3 years from the date of refund.
- (c) Letter from Corporate Office, PGVCL, Rajkot No. 11926 dtd.30.12.2016.
- (d) Ombudsman Order in Case No. 63 of 2018.

Hon. CGRF is requested to take note of above points and order suitably in line with Regulations and related laws only.

Representation by Respondent : PGVCL

2.1 M/S. Madhu silica Pvt.Ltd is an EHT Consumer with PGVCL City-2 Division, Bahvnagar having consumer No. 23865 and contracted demand 8250 KVA, GIDC, Vartej, PLOT No. 147, Bhavnagar.

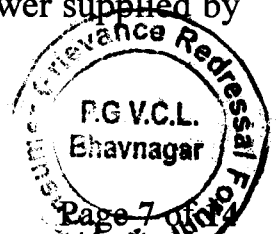
2.2 An approval was accorded by our competent authority vide letter No. PGVCL/R&C/9422 dtd.16.11.2013 to M/S. Madhu Silica Pvt. Ltd. for Operationalization as an open access customer in line with GERC Notification 3 of 2011. In this letter there is no specific instruction about taking MD into consideration for billing purpose. Same is attached herewith. (Annexure - I)

2.3 Detailed reply against Fact of the matter of letter from M/S. Madhu Silica Pvt. Ltd. to CGRF, PGVCL, Zone Office, Bhavnagar on dtd.21.11.2019 is as follows.

(1) As per indian Electricity act-2003 section 42(2) the distribution licensee should allow open access to its consumers and accordingly, GERC has formed GERC Regulation 2011 vide Notification No.03 of 2011.

(2) In the GERC regulation notificaton 3 of 2011 Clause No. 32(3) there is no any clarification regarding issuing of energy bill to the open access customer considering the actual recorded maximum demand of maximum demand for the power supplied by PGVCL. It clearly states about energy charges only.

(3) It is done as per the GERC regulation notification No.03 of 2011.



(4) There is no violation of GERC regulation for open access notification No.3 of 2011 because of reason mentioned as above Point No.2.

(5) - (a) The order of CGRF, PGVCL, City-2 Division, Bhavnagar has been given by considering the guide lines received from higher authorities. All the Correspondence with higher ups are attached herewith. **(Annexure-II)**

(b) As per the GERC Regulation for CGRF, notification No.02 of 2011, Clause No.2.30(3), matter regarding refund is not considered by this office as CGRC as same is for the period from Jan-2014 to July-2016 i.e after period of about late by 3 years.

(c) All the correspondence with higher ups are attached herewith, as per point No. 5(a).

(d) As mentioned above para 5(b).

(e) Refund can not be granted due to there is no clarification given in clause No. 32(3) of GERC Notification No.03 of 2011.

(6) Letter sent as directive for such matter as mentioned by M/S. Madhu Silica Pvt. Ltd., by the Addl. Chief Engineer(R&C), Corporate Office, Rajkot is not available with us.

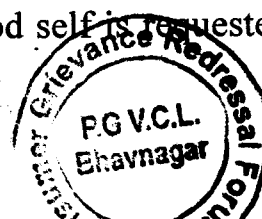
(7) The Word "Time bar" of GERC regulation notification 2 of 2011, Clause No. 2.30(3) has wrongly been interpreted at this stage.

(8) Undersigned has gone through the order of Hon'ble Ombudsman in Case No. 63 of 2011. This matter is not similar to the case of M/S Madhu Silica Pvt. Ltd.

(9) The Calculation sheet for the difference of MD Charges submitted by M/S. Madhu Silica Pvt. Ltd. is not correct. The exact calculation sheet as per PGVCL data is attached herewith. **(Annexure-III)**

Further, please find enclosed herewith CGRF order from the CGRF, Rajkot to M/S. Ravi Technoforz Pvt. Ltd. V/S PGVCL. **(Annexure - IV)**. As per this order para No.3.1(3) it is mentioned that, " if any difficulty arises in giving effect to any of the provisions of these regulations, the commission may be general or special order, direct the state Transmission Utility, State Load Dispatch Centre, Intra state licensees and the open access customer, to take such action, as may appear to the commission to be necessary or expedient for the purpose of removing difficulties." So, if applicant has any grievance regarding open access bill, they should represent it to GERC. So, same has not been entertained by the CGRF, Rajkot.

Looking to the all above facts your good self is requested to reject the application of consumer.



Representation by Appellant : M/S. Madhu Silica Pvt.Ltd.

Representation – 3 Dtd. 03.03.20.

We are further to our subject application and reply of respondent as per above, referred 4. The respondent had sent a bunch of correspondence within the respondents department regarding the subject. A point wise reply of the reference No.4 is narrated below. We crave leave to submit further representation/documents as and when required after submission of this reply.

- 1) The content is noted.
- 2) We repeat the section 32.3 again for understanding of respondent.

In case of deviation by open access customer who is also a consumer of distribution licensee, the difference between the applicable scheduled open access load and actual drawl shall be accounted block wise and shall be settled in accordance with the following.

The energy consumption of such customer shall be recorded in 15 minutes time block.

In case of actual energy drawl is more than the scheduled energy drawl but within the contracted demand, customer shall be liable to pay for such over drawl at the applicable tariff rates as determined by the commission time to time.

In case of actual energy drawl is more than the scheduled energy drawl and also more than the contracted demand, payment for the capacity above the contract demand shall have to be made at the penal rate as specified by the commission for such categories of customers in the tariff scheduled.

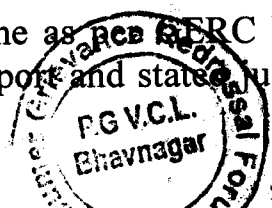
It is started with the word, in case of deviation.., the methodology of counting is given in the regulation when actual energy drawl from PGVCL is more than the scheduled energy. In that case only, the demand charge should be taken in to consideration as per tariff order.

It is said that the difference between the applicable scheduled open access load and actual drawl shall be settled as per formula given. When the scheduled open access energy is more than the actual energy drawn from PGVCL, the demand from PGVCL is not to be considered.

Even the 85 % demand as per tariff order is also debatable as the demand is to be considered only when the actual energy drawl is more than the scheduled energy.

Anyway, as per above explanation, the demand from PGVCL is not to be considered when the scheduled energy is more than the actual energy drawn from PGVCL.

(3) The Statement that the billing is done as per ERRC regulation No.3 of 2011 is vague and without any documentary support and stated just for the sake of statement and we do not agree with the same.



(4) The reason mentioned in (2) of above referred reply dtd.24.02.2020 by the respondent only explained that the respondent do not find any clarification regarding the matter from the regulation 32(3) of the GERC Notification 3 of 2011. This shortcoming on part of the respondent cannot be a reason for not granting the legally due benefit to the applicant.

For the purpose we had tried to explain the clarification as per para (2) above.

(5) The CGRC is not a quasi-judicial authority as per indian electricity Act -2003. It is only a mechanism for amicable and fast solution of the grievances before it placed against the CGRF.

(a) It is said that the order is granted as per guideline from the higher authorities.

In first place, the order should be given in line with related GERC regulation and not based on the guide lines by any authorities. The guideline is circulated for clarification in line with Indian Electricity Act-2003 and related GERC regulation/Orders. The guide line must not be in violation to GERC regulations.

In the said order dtd.11.11.2019, it is stated that as per guide line dtd.12.02.2019., the refund is asked for the period of June-2014 to July-16 after a period of 3 years so the same cannot be entertained.

Point No (7) of the latest reply dtd. 24.2.2020 says that **the word time bar has wrongly been interpreted at this stage.** As per reply itself, the base of the CGRC order is wrong so automatically the CGRC order become null and void.

Also, in the said guideline it is mentioned that,

“ ગ્રાહક દ્વારા પાછલા વર્ષો એટલે કે, જાન્યુઆરી-૨૦૧૪ થી જુલાઈ-૨૦૧૬ ના ગાળા દરમ્યાન વસુલવામાં આવેલ ડિમાન્ડ ચાર્જ અને તેના ઉપરની ઈલે.ડ્યુટીની રકમ રીફંડ આપવા અરજી કરેલ છે. જે હાલના પ્રાવધાન મુજબ ટાઈમબાર થઈ ગયેલ છે. જે અંગે તમારો અભિપ્રાય આપશો.”

In above, guideline it is never mentioned that the refund should not be granted due to time bar application. In fact the authority has asked the respondent to check the rules and regulation and give their opinion whether the application is time bar or not.

As explained in the point No. 7 of reply dtd. 24.02.2020 the provision of time bar is wrongly, interpreted.

b. The GERC (CGRF and Ombudsman) regulation notification 2of 2011 is superseded by GERC (CGRF and Ombudsman) regulation notification 2 of 2019 dtd. 30.9.2019. The CGRC order is dtd.11.11.2019. So, only Regulation of Notification 2 of 2019 is applicable.

c. The correspondence is received as per attachment.

d. As stated above, the explanation stated in para 5(b) of reply is against the regulation and accordingly the reply is not sustainable.



e. In case of non clarity on the part of Respondent, the matter should be referred to the competent authority of their company or as per regulation they may file petition in GERC or whatever course they deemed fit.

- But, in no way, the lacuna on the part of respondent can result in denial of our due refund. This is violation of Consumers fundamental right and natural justice.

6. We had mentioned letter from The Addl. Chief Engineer(R&C) corporate office, PGVCL, Rajkot No. PGVCL/R&C/11926 dtd. 30.12.2016.

It is not mentioned that what effort is mad to get the letter mentioned above. This is an official correspondence from the corporate office of the respondent itself and copy must be available with the corporate office. It is duty of the Respondent to get internal communication which is very important for the case. Hon. CGRF is requested to get the copy of the letter as mentioned.

7. As the word time bar is wrongly interpreted by the respondent as per the reply submitted. We think that the matter is now clear as the main reason for rejection of our refund application is declared as wrong interpretation of the regulation.

8. In the order in case No. 63 of 2018 Hon Ombudsman has granted refund of night charges to the applicant for the period starting from 2008. The order is granted in year 2018. Definitely, the matter is not similar to our application but the part of the Hon. Ombudsman order, mentioned in our application, is against the stand taken by the respondent that the refund cannot be granted as the matter is for the period January - 2014 to July- 2016.

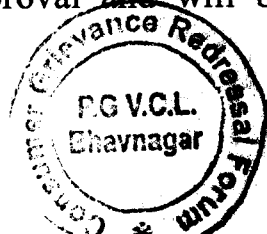
9. The calculation can be verified at later stage when in Principle, the respondent is agreed for the refund.

The respondent had quoted CGRF Rajkot Order in case of M/S. Ravi Techno forge Pvt. Ltd. V/S PGVCL and quoted that in case of any difficulty the open access consumer should approach the Gujarat Electricity Regulatory Commission.

- The GERC can be approached if and only if the interpretation of the regulation is required or in the case where regulation is challenged. In this case we are neither challenging the regulation nor asking for interpretation of any regulation. This is a dispute between a consumer and a distribution licensee regarding not granting of refund and same cannot be filed before the commission.

Please refer the point No.1 (1.1) of the above mentioned CGRF order in case of Ravi Techno forge. It is mentioned that as per corporate office letter No. 11926 dtd. 30.12.2016, the demand charge should be collected from open access consumer as per demand used from PGVCL. It is different that the applicant in that case had asked the actual demand charges and challenged collection of 85 % contract demand charge.

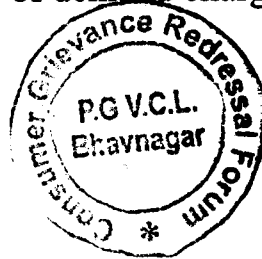
- In the same Para, it is mentioned that refund proposal for June - 2013 to April - 2014 is already sent to circle office for approval and will be granted as per approval process.



This is the same circular we had mentioned in our application to CGRF and respondent is failed to get a copy. From above CGRF order it is clear that,

- I. The bill should be issued as per corporate office guideline dated 30.12.2016.
- II. As per guide line bill should be raised for PGVCL recorded demand only.
- III. The dispute is regarding billing demand should be considered as actual demand or 85 % of the contract demand.
- IV. The refund proposal for June-2013 to April-2014 is sent to approval by the EE , Rural, PGVCL, Rajkot so there is no so called time bar effect on the matter.
- IV. Circular No. 11926 dtd.30.12.2016 is available with EE, Rural, PGVCL, Rajkot.

Considering all above mentioned point, the Hon. CGRF is requested to direct the respondent to refund the difference of demand charge with applicable interest.



FORUM'S OBSERVATION AND FINDINGS :

3.1 Complainer **M/S. Madhu Silica Pvt.Ltd** is EHT consumer, no 23865, under **HTPI tariff** having contract demand of 8250 KVA from July 2019, after **release of 200 KVA** additional load in July 2019.

3.2 Complainer is also Open Access consumer (OCS) drawing power from other entities in accordance to GERC notification 3 of 2011.

3.3 Complainer being Open Access Consumer (OCS) should be billed as per regulation 32(3) of GERC Notification. 32(3) of notification states:

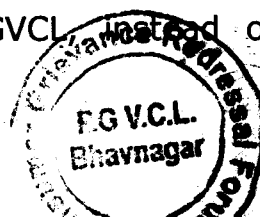
(3) In case of deviation by Open Access Customer who is also a consumer of distribution licensee, the difference between the applicable scheduled open access load and actual drawl shall be accounted Block wise and shall be settled in accordance with the following:

- *The energy consumption of such customer shall be recorded in 15 minutes time block*
- *In case of actual energy drawl is more than the scheduled energy drawl but within the contracted demand, customer shall be liable to pay for such over drawl at the applicable tariff rates as determined by the Commission time to time.*
- *In case of actual energy drawl is more than the scheduled energy drawl and also more than the contracted demand, payment for the capacity above the contract demand shall have to be made at the penal rate as specified by the Commission for such categories of customers in the tariff schedule.*
- *Provided that in case of under drawl as a result of non-availability of the distribution system or unscheduled load shedding, the open access customers shall be compensated by the distribution licensee at the rate of compensation notified by the Commission under standard of performance regulations for relevant category of consumers.*

Provided that in case of underdrawal as a result of non-availability of the distribution system or unscheduled load shedding, the open access customer shall be compensated by the distribution licensee at the average power purchase cost of the distribution licensee.

[Explanation.- For the purpose of this regulation, unscheduled load shedding means, load shedding during hours other than the hours for which load shedding has been announced by the distribution licensee according to the State Distribution Code.]

3.4 Complainer has represented that Respondent PGVCL had wrongly recovered demand charges and not billed as per regulations 32(3) from January 2014 to July 2016. Respondent recovered maximum demand charges against demand which was not drawn from PGVCL instead of billing in accordance to regulation 32(3).



- 3.5 In their first reply to Forum, respondent evoked Regulations 2.30(3) of GERC notification 02 of 2011 and stated that representation is not maintainable since complainer has represented after three years.
- 3.6 Respondent informed Forum during hearing that then they have been billing consumer as per 32(3) of notification 3 of 2011. Respondent has submitted the proposal to their higher authority for the refundable charges to complainer.
- 3.7 Complainer has misconcieved provision of regulation 32(3) and issued wrong bills from January-14 to July-16.
- 3.8 Complainer had raised the point of wrong demand charges in their bills vide his letter dated 1.10.18 to respondent. Complainer has complined after two years when clause of GERC Notification No 2/2011 Clause No. 2.30 (3) was inforce. In view of this complainer's request for refund of difference of revised bill with respect to bill paid by them with interest is not accepted.
- 3.9 In view of aforesaid observations, Respondent is directed to work out revise bill for the period from January-14 to July-16 as per regulation 32(3) and refund charges to complainer's account within 30 days.

4.0 **ORDER:** As per Para 3.9.

: ORDER :

On the base of written, oral representations and documents from both party and Forum's observations and findings "It is ordered as per conclusion 3.9.

- If Plaintiff has any grievance against this judgement, then Plaintiff can represent to The Ombudsman Office, Block No. 3, Polytechnic Compound, Ambavadi, Ahmedabad in 30 days after this judgement.

(B.J. Dave)
Independent Member

(P. N. Ajakiya)
Technical Member

(M.R. Vajaria)
Chairman, C.G.R.F,
P.G.V.C.L., Bhavnagar.

Date : 03.03.2020.

