

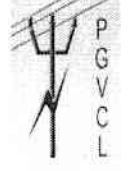
# પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ

## ગ્રાહક તકરાર નિવારણ ફોરમ

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

CIN : U40102GJ2003SGC042908

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ક્રમાંક: બીજેડ/ફોરમ/૩૮/૨૧-૨૨/ ૩૪૧૬

તારીખ: 23 DEC 2021

આર. પી. એ. ડી.

પ્રતિ,  
શ્રી રામ ઓક્સી-ગેસ પ્રા. લી.,  
શ્રી રામ હાઉસ, ખેરગાડા શેરી,  
ખારગેઈટ,  
ભાવનગર.  
મો. નં-૦૨૭૮-૨૪૨૫૪૯૬ / ૨૪૩૦૦૬

કેસ નં. ૩૮/૨૧-૨૨

**વિષય :** અમોને આપવામાં આવેલ અયોગ્ય બિલ ની રકમ વ્યાજ સાથે પરત મળવા બાબત.

**સંદર્ભ :** (૧) આપનો પત્ર તા. ૨૭/૦૭/૨૦૨૧ જે અત્રેની કચેરી ને મળ્યા તા. ૦૬/૦૮/૨૦૨૧.

(૨) અત્રેની કચેરીનો પત્ર નં. બીજેડ/ફોરમ/૩૮/૨૧-૨૨/૨૩૬૪ તા. ૦૮/૦૮/૨૦૨૧.

(૩) અત્રેની કચેરીનો પત્ર નં. બીજેડ/ફોરમ/૩૮/૨૧-૨૨/૩૦૮૫ તા. ૧૮/૧૦/૨૦૨૧.

(૪) અત્રેની કચેરીનો પત્ર નં. બીજેડ/ફોરમ/૩૮/૨૧-૨૨/૩૪૪૨ તા. ૨૦/૧૧/૨૦૨૧.

### જાહેરાત

શ્રીમાન,

આપશ્રીની, ઉપરોક્ત વિષયના સંદર્ભમાં આપના દ્વારા ગ્રાહક ફરિયાદ નિવારણ ફોરમ, ભાવનગર સમક્ષ કરેલ રજુઆતના સંદર્ભમાં આપશ્રીને ફોરમ સમક્ષ તા. ૦૪/૧૨/૨૦૨૧ નાં રોજ સાંભળવામાં આવેલ. જેના સંદર્ભમાં ગ્રાહક ફરિયાદ નિવારણ ફોરમ દ્વારા આપવામાં આવેલ ચુકાદો આ સાથે સામેલ છે.

આપશ્રીની જાણ સારૂ.

*[Signature]*  
કન્વીનર,

ગ્રાહક ફરિયાદ નિવારણ ફોરમ  
પીજીવીસીએલ., ઝોનલ કચેરી ભાવનગર.

બિડાણ:- ઉપર મુજબ.

પ્રતિ: કાર્યપાલક ઈજનેરશ્રી,  
પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ  
વિભાગીય કચેરી, પાલીતાણા.

.....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:-

શ્રી અધિક્ષક ઈજનેર, પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ, વર્તુળ કચેરી, ભાવનગર.  
...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 - ૩૮/૨૧-૨૨

વાદી :- શ્રી રામ ઓક્સી-ગેસ પ્રા.લી,

◇ વિરુદ્ધ ◇

પ્રતિવાદી :- પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ

◇ રજૂઆતની તારીખ:- તા.૦૪/૧૨/૨૦૨૧ ◇

હાજર રહ્યા :- શ્રી વી.એલ.શાહ (વાદી ના અધિકૃત પ્રતિનિધિ)

પ્રતિવાદી :- શ્રી એચ.એમ.ભોજાણી, કાર્યપાલક ઈજનેર, વિભાગીય કચેરી, પાલીતાણા.  
(પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ વતી)

શ્રી રામ ઓક્સી-ગેસ પ્રા.લી., મું.ભાવનગર ની અમોને આપવામાં આવેલ અયોગ્ય બિલની રકમ વ્યાજ સાથે પરત મળવા બાબત ની રજૂઆત કન્વીનરશ્રી, ગ્રાહક ફરિયાદ નિવારણ ફોરમ, ભાવનગરને મળતાં, ફોરમે તેનાં ફરીયાદ રજીસ્ટરમાં ક્રમાંક : ૩૮/૨૧-૨૨ થી નોંધી તેનાં યોગ્ય નિરાકરણ માટે અધિક્ષક ઈજનેરશ્રી, વર્તુળ કચેરી, ભાવનગર ને પત્ર નં. બીએડ/ફોરમ/૩૮/૨૧-૨૨/૨૩૬૪ તા.૦૮/૦૮/૨૦૨૧ થી વાદીશ્રી ની જાણ હેઠળ મોકલી આપેલ.

આમ છતાં, ફોરમે વાદીશ્રી ને તેમની ફરિયાદ બારામાં લેખિત / મૌખિક રજૂઆત કરવા તા.૨૯/૧૦/૨૦૨૧ ના રોજ તથા તા.૦૪/૧૨/૨૦૨૧ ના રોજ ઉપસ્થિત રહેવા જણાવેલ. જેમાં, વાદી ના અધિકૃત પ્રતિનિધિ શ્રી બી.એલ.શાહ હાજર રહેલ તથા પ્રતિવાદી તરફે શ્રી એચ.એમ.ભોજાણી, કાર્યપાલક ઈજનેર, વિભાગીય કચેરી, પાલીતાણા ઉપસ્થિત રહેલ.

વાદીશ્રીની રજૂઆત:- ફોરમને કરેલ લેખિત અરજી મુજબ રજૂઆત છે કે...

### **Representation -1 on dtd.27.07.2021.**

We are a company registered under company's act and engaged in manufacturing of Oxygen and other related products and having our subject plant situated at Survey No.215/1 Manar Sathra Road, Village : Alang, Ta : Talaja, Dist : Bhavnagar.

We are EHT Consumer with PGVCL(O&M) Division, Palitana having connection No.23368 and contract demand of 7400 KVA under HTP1 tariff.



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 procured power under bilateral agreement with generator or from Energy Exchange.

On scrutiny of bills by our audit department, it is found that the demand charges collected by the distribution licensee of PGVCL is not in line with GERC Open access Regulation notified vide Notification No.03 of 2011. We had asked to revise the bills and refund the amount with interest vide our letter dtd.03.02.2021 (**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.

As no reply is received from the respondent, we decided to file our Grievances to CGRF of PGVCL 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 & Conditions of Intra State Open access) Regulation-2011 vide notification 3 of 2011.
- (2) As per Regulations 32(3) of GERC open access regulations 2011. 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 fifteen 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 of 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



panel rate as specified by the commission for such categories of customers in the tariff schedule.

As per above, the demand charge, 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 Ex. Engr.(O&M), PGVCL, Palitana, and 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 months the demand supplied by distribution licensee PGVCL is less than the actual maximum demand recorded in the meter. In all such cases, the bill is submitted with actual maximum demand recorded in meter as billing demand. **In fact, the billing demand should be maximum demand recorded for the power supplied by PGVCL Only.** The billing procedure violates the GERC regulations for open access (Notification 3 of 2011)
  - (a) As per above, we had asked for the refund for the period of access April-2012 till today and requested to calculate all bills in line with GERC regulations from refund onwards. (**Annexure-3**)
- (5) Regarding the matter, please note that a letter was sent as directive to the superintending Engineer, C.O, PGVCL, Morbi by the Addl. Chief Engineer(R&C), Corporate Office, PGVCL, Rajkot vide No. PGVCL/R&C/11926 dtd.30.12.2016.(**Annexure-4**) 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 maximum demand for power supplied by PGVCL as billing demand. At many places including Kutch Circle, the energy billing for open access consumers billed correctly with PGVCL demand since beginning of open access. Hon'ble CGRF is requested to direct respondent



to confirm the same from the Morbi and Kutch Circle of same distribution licensee PGVCL as billing methodology and billing circulars are supposed to be same for all distribution company's under GUVNL in Gujarat State. Particularly, this guideline is issued by Corporate Office of the respondent, there should not be any confusion regarding that and if such confusion prevails than same must be clarified by the respondent from his Corporate Office.

- (6) The Electricity Ombudsman of Gujarat in his order in case No.63 of 2018 M/S. Sky Ceramics Private Ltd. V/S Executive Engineer, PGVCL, Morbi has granted refund from the date of release of connection.

Point No.4.8 of his order says that,

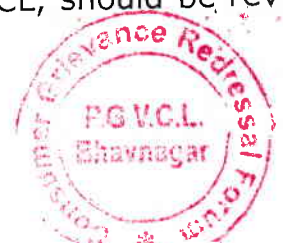
*" ... 4.8 as per para No.4.6, records of connection of appellant are available with respondent since release of connection. Respondent has already installed poly-phase meter at the time of release of said connection. Therefore, concession for use of electricity during night hours can be given to the 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."*

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

- (7) In a recent order by CGRF of PGVCL at Bhavnagar in case No.95 of 2019-20 M/S Madhu Silica Private Limited V/S EE (City-2), PGVCL, Bhavnagar (**Annexure-5**), in point No.3.9 it is ordered that, in view of the aforesaid observations, respondent is directed to workout 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.

**Our Prayer:**

- (a) All the bills from date of granting open access till the date of refund, where the maximum demand billed is more than the maximum demand for power supplied by PGVCL, should be revised in line with GERC regulations and tariff order.



- (b) The difference of revised bills with respect to bill paid by us should be refunded with interest till the same is materialized in our account.
- (c) The billing programme of our connection should be revised accordingly.
- (d) Any other relief the Hon'ble CGRF deemed fit in the matter should be granted.

**Calculation for Refund With Respect to PGVCL Max Demand And Billing Demand In Case Of M/S Shree Ram Oxy Gas Private Ltd. Connection No.23368.**

Month	Demand	85% MD	PGVCL MD	Diff.	MD Amt.	Ele. Duty
Apr-12	3800	3230	3606	376	101520	
May-12	3800	3230	3576	346	93420	
Jun-12	3800	3230	3666	436	117720	
Jul-12	3800	3230	3894	664	179280	
Aug-12	3800	3230	3738	508	137160	
Sep-12	3800	3230	3798	568	153360	
Oct-12	3800	3230	3720	490	132300	
Nov-12	3800	3230	3792	562	151740	
Dec-12	3800	3230	3791	561	151470	
Jan-13	3800	3230	3814	584	157680	
Feb-13	3800	3230	3831	601	162270	
Mar-13	3800	3230	3722	492	132840	
Apr-13	3800	3230	3967	737	206360	
May-13	3800	3230	3942	712	199360	
Jun-13	3800	3230	3921	691	193480	
Jul-13	3800	3230	3715	485	135800	
Aug-13	3800	3230	3738	508	142240	
Sept-13	3800	3230	3726	496	138880	
Oct-13	3800	3230	3744	514	143920	
Nov-13	3800	3230	3727	497	139160	
Dec-13	3800	3230	3850	620	173600	
Jan-14	3800	3230	3908	678	189840	
Feb-14	3800	3230	3852	622	174160	
Mar-14	3800	3230	3814	584	163520	
Apr-14	3800	3230	3747	517	180950	
May-14	3800	3230	3678	448	156800	



Jun-14	3800	3230	3675	445	155750	
Jul-14	3800	3230	3658	428	149800	
Aug-14	3800	3230	3637	407	142450	
Sept-14	3800	3230	3700	470	164500	
Oct-14	3800	3230	3695	465	162750	
Nov-14	3800	3230	3767	537	187950	
Dec-14	3800	3230	3789	559	195650	
Jan-15	3800	3230	3827	597	208950	
Feb-15	3800	3230	3827	597	208950	
Mar-15	3800	3230	3695	465	162750	
Apr-15	3800	3230	3695	465	197625	
May-15	3800	3230	3642	412	175100	
Jun-15	3800	3230	3630	400	170000	
Jul-15	3800	3230	3605	375	159375	
Aug-15	3800	3230	3606	376	159800	
Sept-15	3800	3230	3601	371	157675	
Oct-15	3800	3230	3678	448	190400	
Nov-15	3800	3230	3668	438	186150	
Dec-15	3800	3230	3711	481	204425	
Jan-16	3800	3230	3677	447	189975	
Feb-16	3800	3230	3661	431	183175	
Mar-16	3800	3230	3628	398	169150	
Apr-16	3800	3230	3618	388	184300	
May-16	3800	3230	3593	363	172425	
Jun-16	3800	3230	3656	426	202350	
Jul-16	3800	3230	3591	361	171475	
Aug-16	3800	3230	3611	381	180975	
Sept-16	3800	3230	3664	434	206150	
Oct-16	3800	3230	3485	255	121125	
Nov-16	3800	3230	3695	465	220875	
Dec-16	3800	3230	3692	462	219450	
Jan-17	3800	3230	3713	483	229425	
Feb-17	3800	3230	3738	508	241300	
Mar-17	3800	3230	3673	443	210425	
Apr-17	3800	3230	3660	430	204250	
May-17	3800	3230	3642	412	195700	
Jun-17	3800	3230	3610	380	180500	



Feb-18	7400	6290	6381	91	43225	
Mar-18	7400	6290	7334	1044	495900	
Apr-18	7400	6290	7265	975	463125	69469
May-18	7400	6290	7254	964	457900	68685
Jun-18	7400	6290	7234	944	448400	67260
Jul-18	7400	6290	7234	944	448400	67260
Aug-18	7400	6290	7127	837	397575	59636
Sept-18	7400	6290	7339	1049	498275	74741
Oct-18	7400	6290	7411	1121	532475	79871
Nov-18	7400	6290	7395	1105	524875	78731
Dec-18	7400	6290	7397	1107	525825	78874
Jan-19	7400	6290	7449	1159	550525	82579
Feb-19	7400	6290	7426	1136	539600	80940
Mar-19	7400	6290	7448	1158	550050	82508
Apr-19	7400	6290	7359	1069	507775	76166
May-19	7400	6290	7220	930	441750	66263
Jun-19	7400	6290	7287	997	473575	71036
July-19	7400	6290	7294	1004	476900	71535
Aug-19	7400	6290	7276	986	468350	70253
Sept-19	7400	6290	7325	1035	491625	73744
Oct-19	7400	6290	7241	951	451725	67759
Nov-19	7400	6290	7276	986	468350	70253
Dec-19	7400	6290	7393	1103	523925	78589
Jan-20	7400	6290	7410	1120	532000	79800
Feb-20	7400	6290	7436	1146	544350	81653
Mar-20	7400	6290	7325	1035	491625	73744
Apr-20	7400	6290	7101	811	385225	57784
May-20	7400	6290	3745	0	0	0
Jun-20	7400	6290	6027	0	0	0
Jul-20	7400	6290	7199	909	431775	64766
Aug-20	7400	6290	7310	1020	484500	72675
Sept-20	7400	6290	7227	937	445075	66761
Oct-20	7400	6290	7238	948	450300	67545
Nov-20	7400	6290	7285	995	472625	70894
Dec-20	7400	6290	7248	958	455050	68258
<b>Total</b>					<b>26304555</b>	<b>2240028.75</b>
<b>Total Amount of Refund with ED</b>					<b>28544583.75</b>	





**Representation -2 dtd.28.10.2021.**

We are further to our above application and reply received by the respondent vide No. PD/TECH-1/6049 dtd.28.09.2021.

From the reply, it seems that the respondent has not taken care to go through the content of the application and enclosure with the application.

The respondent had not commented on the provision of GERC open access Regulation No.3 of 2011, directive issued by the Additional Chief Engineer(R&C), Corporate Office, PGVCL, Rajkot and the order of PGVCL, CGRF, Bhavnagar in Case No.95/19-20.

As per reply, the respondent had quoted the GERC tariff for power supplied from PGVCL but grossly ignored the open access regulation which is to be considered when power is procured from the source other than PGVCL.

The Hon'ble Forum is requested to direct the respondent Executive Engineer (O&M), PGVCL, Palitana to confirm the calculation of demand charges refund provided by us or mend the mistakes in the same, if any.

The Hon'ble Forum is also prayed to direct the respondent to give refund with interest in our account immediately.

☞ પ્રતિવાદીશ્રીની રજૂઆત:- તેમની રજૂઆત છે કે,

**Representation - 1 dtd.29.09.2021.**

Anent to the above subject, representation made by you at Hon'ble CGRF, Bhavnagar, regarding calculation of demand charges in your EHT connection M/S. Shree Ram Oxy Gas Pvt. Ltd. Con No.23368 CD 7400 KVA vide Case No.(2). You have also submitted showing Maximum demand month wise from April-2012.

According to your representation you are informed that your connection released on dt.04.03.2012 for CD:3800 KVA. ABT meter installed dt.27.12.2012. Approval accorded for open access to you by letter No. PGVCL/R&C/377 dtd.15.01.2013 from period 16.01.2013 to 31.01.2013 in which consent accorded is 3.04 MW.



While observing your representation and sheet submitted by you, you have applied for considering demand charges as per PGVCL MD. According to tariff we have to bill as per Maximum demand or 85 % of Contract demand whichever is higher. Hence, according to tariff we have considered PGVCL MD or 85% of contract demand whichever is higher in your billing which is also same as mentioned by you in your sheet.

Hence, your application for refund cannot entertained.

**Representation - 2 dtd.18.11.2021.**

**Details Compliance of CGRF Case No.38/21-22.**

A. M/S Shree Ram Oxy Gas Pvt. Ltd. is EHT Consumer of PGVCL vide Consumer No.23368, having contract demand: 7400 KVA.

Connection Release C.D 3800 KVA	04.03.2012.
ABT Meter Installed date	27.12.2012
UC Released for Load Extension 3800+3600 = 7400 KVA	July - 2017
Physical Released Load Extension 3800+3600 = 7400 KVA	Jan - 2018.

B. An approval was accorded by our competent authority vide letter No. PGVCL/R&C/377 dtd.15.01.2013 to M/S. Shree Ram Oxy Gas Pvt. Ltd. in this letter there is no specific instruction about taking MD into consideration for billing purpose. Same is attached herewith.  
**(Annexure-1)**

**Against the Submission Fact of the matter, Reply from PGVCL side is as below.**

- 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.3 of 2011.
- 2) GERC regulation notification 3 of 2011 clause No.32(3).

**32. Imbalance Charge**

(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 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 customer in the tariff scheduled.

GERC Regulation Notification No.3 of 2011 Clause No.32(3) is for imbalance charges, which clearly states about energy charges only. It is not mention about issuing of energy bill to the open access customer considering the actual recorded maximum demand or maximum demand for the power supplied.

Where the maximum demand is more than the contract 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.

(3) Energy Bills in line with the GERC regulation Notification No.3 of 2011.

(4) Demand recorded in meter is actual total load used by consumer. It means that consumer had used that load (demand) through network to which this open access consumer is connected. Hence, burden on distribution licensee network is as per actual demand recorded in meter not as per power supplied. Hence, there is no violation of GERC regulation for open access notification No.3 of 2011 as mentioned at Reply(2).

(a) Revise Bills calculation from April-2012 is not correct not as per tariff.



- (5) PGVCL Letter No. PGVCL/R&C/11926 dtd.30.12.2016 is not available with us.
- (6) The Electricity Ombudsman of Gujarat in Order in Case No.63 of 2018, the matter is not similar to the Case of M/S Shree Ram Oxy Gas Pvt. Ltd.
- (7) Order by CGRF of Bhavnagar in Case No.95 of 2019-20 of M/S. Madhu Silica Private Limited, no any direction available with us.
- (A) It is also brought in notice to the Hon'ble CGRF that demand recorded in meter is actual total load used by the consumer. It means that consumer had used that load (demand) through network to which this open access consumer connected. Hence, burden on this network is as per actual demand recorded in meter not as per power supplied by PGVCL. Hence, bills issued as per actual demand are correct.
- (B) It is also brought in notice to the Hon'ble CGRF that in **SUO-MOTU petition** filled by Hon'ble GERC vide No. **1213/2012** " in the matter of SUO-Motu Petition on Commission's Justification for determination of tariff of the Consumers of 1MW and above, in the light of consideration of such Consumers as deemed open access consumers."

**SUO-Motu petition Order at Clause No.9 (Annexure-2)**

- (C) The state Commission has justification to determine tariff for all consumers including those having load of 1 MW and above. Tariff determine the state Commission is as mention at Point "F" & Bills prepared in line with tariff Only.
- (d) The distribution licensee have no power to determine the rate and terms and conditions of supply for any category of consumers, including those having load of 1 MW and above.
- Hence, PGVCL has no right to derive methodology to find out demand charges for open access consumers.

**C. GERC regulation Notification 3 of 2011 Clause No.32(3)**

D.

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.



**As per applicable tariff for HT Connection :**

**13.4 Billing Demand:**

The Billing demand shall be the highest of the following.

- (a) Actual maximum demand established during the month.
- (b) Eighty-Five percent of the contract demand
- (c) One hundred KVA.

**(E) As per GERC Regulation notification No.3 of 2011 Clause No.45,**

**Powers to remove difficulties.**

If any difficulty arises in giving effect to any of the Provisions of these regulations, the commission may by general or special order, direct the state transmission utility, state Load Dispatch Centre, Intra State licensees and the open access customer, to take such actions, 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.

**(F)** As the bill is in line with GERC regulation notification No.03 of 2011, hence bills issued as per actual demand and are correct. Hence, no need for revision of bills and hence no refund with interest required.

**Our Prayer :**

Considering the facts and GERC Notification No.3 of 2011 Clause No.32(3) & SUO-MOTU petition filled by Hon'ble GERC vide No.1213/2012, Energy bills prepared for open access consumer M/S. Shree Ram Oxy Gas Pvt. Ltd. are in order and as per approved tariff by GERC and hence no need for any revision.



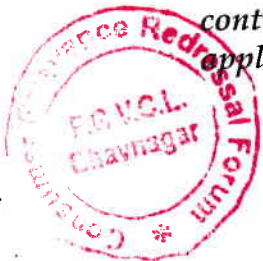
## **FORUM'S FINDINGS.**

On the basis of representations and contention from Complainer and Respondent, documents produced before Forum and relevant Regulations, Forum's findings are under:

- 3.1 Complainer M/s Shree Ram Oxy-Gas Pvt. Ltd is EHT consumer bearing consumer number 23368 of 7400 KVA under HTP I tariff at village Alang, Tal: Talaja. Complainer is EHT consumer of Respondent PGVCL. Complainer's connection was released on 4.3.12 for 3800 KVA and in July 2017 additional load of 3600 KVA (3800 + 3600 = 7400 KVA) was released.
- 3.2 Complainer is Open Access consumer (OCS) drawing power from other entities in accordance to GERC notification 3 of 2011.
- 3.3 Complainer has represented that Respondent PGVCL had wrongly recovered demand charges and not billed as per regulations 32(3) from April 2013 to June 2019. Respondent recovered maximum demand charges recorded in the meter for billing purpose without differentiating the actual recorded maximum demand and maximum demand supplied by PGVCL. Respondent did not bill Complainer in accordance to regulation 32(3).
- 3.4 Complainer being Open Access Consumer (OCS) should be billed as per regulation 32(3) of GERC Notification 3 of 2011 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.]*

3.5 Complainer as well as Respondent have evoked Clause 32 (3) of GERC Open Access Regulation 2011. Respondent has submitted that they have billed Complainer in accordance with Regulation 32 (3).

Complainer has submitted that Respondent has not considered maximum demand for billing purpose in accordance with Regulation 32 (3) and submitted statement showing amount to be refunded by Respondent PGVCL.

3.6 Open access consumer, Madhu Silica had filled the case No. 95/19- 20 before this Forum. Madhu Silica had filled complaint regarding wrong consideration of demand by PGVCL. Forum had ordered PGVCL to revise the bill as per Regulation 32(3) and refund charges.

3.7 Recently, GERC Ombudsman Gujarat State has issued order in case No. 27/2021, M/s Grasim Industries Ltd. V/s Executive Engineer PGVCL Veraval. Grievances of this case are of similar nature.



(a) In second para of 4.8 of order 27/2021, Ombudsman has ordered:

***The Respondent is directed to verify the records of energy bill issued under open access as per the period mentioned by the Appellant in their letter dated 6.2.2018 and to confirm the demand supplied by the Respondent during the said period as shown by the Appellant in their letter and to work out the revise bill as per correct demand supplied by the Respondent in accordance with the 32 (3) of the notification No. 3 of 2011. Further, after carrying out the exercise as directed above the Respondent is directed to refund the differential amount, if any, to the Appellant by crediting amount in subsequent energy bill. Copliance to be reported within 30 days period.***

(b) Ombudsman, in the clause No. 4.4 of their order, has observed and noted in light of regulation 32(3) that open access consumer who is also a consumer of Respondent, the energy drawn from the scheduled open access should not be charged at tariff rate. Maximum demand recorded by energy supplied by the Respondent i.e. PGVCL should be charged in the regular bill.

3.8 Respondent has raised the Clause No. 9 (c) and (d) of Suo-Motu petition (No. 1213/2012) Order. However, in the instant case, the matter before this Forum is not about to determine tariff, terms and conditions of supply. This case relates with implementation of regulation 32(3) of GERC notification 3 of 2011 for open access consumers. Respondent has miconcieved interpretation of Clause 32(3) and carried out incorrect billing of complainer.

3.9 Respopndent has raised the point mentioning clause No:45 of notification 3 of 2011, Powers to Remove Difficulties. Forum has to deal the complaint / grievance filled before Forum as per GERC notification No. 2 of 2019.

3.91 From the above observations, it is found that instead of considering maximum demand supplied by Respondent for the purpose of recovery of





the demand charges in the bill of Complainer, Respondent has considered maximum demand recorded in meter and accordingly recovered demand charges from Complainer from April 2012 to Dec 2020. Complainer has submitted statement showing month wise billing demand, PGVCI demand and amount to be refunded to Complainer.

3.92 Complainer transpired about demand charges being recovered from April 2012 to Dec 2020 by PGVCL were not in line with Regulation 32(3). Complainer came to know regarding wrong billing from April-12 to onwards of late, i.e, after 8 years. Such erroneous billing may take place, but sometime it comes in to knowledge lately. In the instant case erroneous billing is done inadvertently by Respondent.

Complainer has prayed for refund of amount with interest. Complainer has not submitted any regulation / rule in support of their demand.

In view of above, Complainer's demand for interest on amount liable to be refunded is not acceptable.

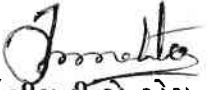
3.93 Respondent is directed to verify the statement submitted by Complainer for the period mentioned in Para 3.91 and confirm the demand supplied by Respondent during period as shown by Complainer and work out revise bill as per correct demand supplied by the Respondent as per regulation 32(3) and refund differential amount to the Complainer by crediting amount in the subsequent energy bill within 30 days period. Complainer's plea for interest on such amount liable to be refunded is not accepted.

3.94 **ORDER: As per Para 3.93.**




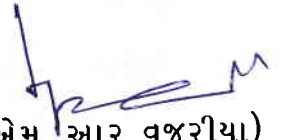
—:: હુકમ ::—

- વાદીની રજૂઆત, પ્રતિવાદીની રજૂઆત તેમજ ફોરમ સમક્ષ રજૂ થયેલ દસ્તાવેજી પુરાવા અને ઉપરના તારણો પરથી તારણ નં " ૩.૯૩ " મુજબ હુકમ કરવામાં આવે છે.
- સદર હુકમ સામે વાદીશ્રીને વાંધો કે તકરાર હોય તો આ હુકમ મળ્યે દિવસ-૩૦ માં વિદ્યુત લોકપાલશ્રીની કચેરી, બ્લોક નં.૩, પોલીટેકનીક કંમ્પાઉન્ડ, આંબાવાડી, અમદાવાદ સમક્ષ અપીલ કરી શકે છે.

  
(શ્રીમતી જે.એમ.મહેતા)  
સ્વતંત્ર સભ્યશ્રી

તારીખ :- ૦૪/૧૨/૨૦૨૧.

  
(એ.એ.જાડેજા)  
ટેકનીકલ સભ્યશ્રી

  
(એમ. આર.વજરીયા)  
અધ્યક્ષશ્રી,  
ગ્રાહક ફરિયાદ નિવારણ ફોરમ  
પ.ગુ.વિ.કું.લી.:ભાવનગર.

