CGRF formed under the provision of IE Act 2003, sub clause 42(5) as well Notification No.2/2011 of GERC (CGRF & Ombudsman)

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
MADHYA GUJARAT VIJ CO LIMITED
CORPORATE OFFICE, 5TH FLOOR SP VIDYUT BHAVAN,
RACECOURSE, VADODARA 390 007

Subject	Consumer Grievances Complaint No. MG-III-10-2018—19
Complainant	M/s. Jalaram Rice Mill, At : Malavada Chawkdi, Vastana Road, Limbasi, Tal: Matar, Dist: Kheda
Respondent	Shri N.B.Dhanalia, Deputy Engineer, Limbasi s/dn of MGVCL.
Date of hearing	06.11.2018 at MGVCL, Corporate Office, Vadodara

QUORUM	NAME
Chairperson	Smt Mala Y Shah, Ahmedabad
Independent Member	Mr A G Shaikh, Nadiad
Technical Member	Shri H R Shah, (RA&C) MGVCL Vadodara

The complaint dated 17.10.2018 regarding wrong billing in respect of LT consumer M/s. Jalaram Rice Mill ,consumer No. 50801/02220/7.

The nature of relief sought from the Forum by the complainant is as under:

(i) To withdraw supplementary bills of Rs.96579.83 issued as per HT Tariff due to exceeding actual demand beyond 100 KW and to apply LTMD tariff as per the rate decided by GERC.

(ii) To cancel estimate letter for HT connection dated 30.10.17

1.0 On 06.11.2018, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri D S Doshi ,representative of complainant M/s. Jalaram Rice Mill, appeared on behalf of complainant whereas Shri N.B.Dhanalia, Deputy Engineer, Limbasi s/dn appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

2.0 The brief history of the case is as under:

2.1 The complainant Shri Ashokbhai Ramabahi Bharwad is having LTMD connection in the name of M/s. Jalaram Rice Mill bearing consumer no.05081/02220/7, contract demand of 92 KW located at Malawada Chowkdi, Vastana Road, under Limbasi subdivision.

2.2 As per the guidelines conveyed in Technical Circular No.49(A) dated 28.07.14 and Technical circular 75,dtd.01.04.16 , the Internal Audit Team, during its audit programme instructed to recover differential amount of LT to HT tariff for Rs 327244.89 from the complainant as the maximum demand recorded had exceeded the contract demand for more than 10% for 5 times during the FY 14-15 for the month from Nov'14 to March'15 and during the FY 2015-16, the maximum demand recorded had exceeded for 4 times in the month of April'15 and Jan'16 to March'16 .Similarly during FY 16-17 the maximum demand recorded exceeded for 5 times in the months of Nov'16 to March'17, the supplementary bill as per HT tariff was served for Rs.465500.08 to the complainant and notices issued for regularization of excess Load.

2.3 As there was no response from complainant, HT estimate for 125 KVA considering the peak average demand of month Nov 16 to Mar-17 amounting to Rs.835253/-issued vide SE (O&M) Nadiad circle office letter No.NC/Tech.1/HT/5178, dated 30.10.17.

2.4 The complainant represented vide his application dtd.15.11.17 before Forum against the Audit bill,supplementary bills issued as per HT tariff and HT estimate served under Suo motu process of conversion from LT to HT supply .

2.5 The complainant was heard before the Redressal committee meeting held at Circle Office Nadiad on dtd.23.08.18 in presence of his representative Shri Manubhai Ramabhai Bharwad and Dy Engr. Limbasi subdivision wherein the Redressal committee as per the guidelines conveyed in Technical Circular No.49(A), Technical circular 75, and guideline letter No. MGVCL/RA&C/HT/ audit/Rev/716, dated 03.07.18 cancelled the Audit bill served for Rs.327244.89, to recover Rs. 96579.83 out of total differential bill from LT to HT tariff was served for Rs.465500.08. The remaining amount to be credited in consumer account. The HT Estimate issued for Rs.835253/- found to be in order vide Order No.NDC/Rev/CRC/ 4777 dated 31.8.18 .

2.6 The statement showing the details of drawl history, bills served and net credited amount is as under:

Year	Month in which MD recorded in excess	Recorded MD in KW	Diff Bill served under HT Tariff.	Differential Bill as per Audit team. Amount & date	Net creditable amount
2014-15	Nov'14	115	61778.85	Rs.327244.89 dtd 30.10.17	61778.85
	Dec 14	114	68795.63		68795.63
	Jan 15	120	107661.77		107661.77
	Feb 15	120	57241.43		57241.43
	Mar-15	121	31767.21		31767.21
2015-16	Apr 15	108	48506.44	Rs.465500.08 dtd. 04.12.17	48506.44
	July 15	104	---		
	Jan 16	112	53679.41		53679.41
	Feb 16	110	36777.29	HT Estimate issued for Rs.835253/- dtd.30.10.17 for regularization under suo motu process.	36777.29
	Mar 16	107	44399.94		44399.94
2016-17	Apr 16	104	---		
	Nov 16	110	43660.58		43660.58
	Dec 16	109	57607.56		57607.56
	Jan 17	113	84289.03		84289.03
	Feb 17	113	61742.39	Net recoverable amount	96579.83
	Mar-17	111	34837.44		
2017-18	June 17	103			

2.7 Aggrieved with the decision of Redressal committee at circle level ,the complainant approached CGRF Vadodara .

3.0 The complainant has represented the case as under:

3.1 The representative of the complainant contended that if Demand is in excess of the Contract Demand then as per rate prescribed in GERC tariff order, Schedule for LT tariff under LTMD category Rate Rs.255/-KW is applicable which is already recovered .

3.2 He contended that as per GERC's Tariff order, HT tariff is applicable for supply of electricity at 3300 V and above and MGVCL cannot apply HT tariff to consumers availing supply of electricity at 440 V i.e. less than 3300V.

3.3 Further quoted clause No.3.2 of GERC Supply code 2015, which states that "for all installations exceeding 6 KW of connected load (Motive power load exceeding 2 HP and up to 150 HP in the aggregate) and up to 100 KVA / KW of contracted demand, according to which classification is based on supply voltage and when contract demand (not actual demand) is less than 100 KW, LT connection is applicable and HT connection is for contract demand exceeding 100 KVA/ KW and not actual demand more than 100 KW and hence cannot be billed under HT tariff.

3.4 He further contended that section 45 of EA 2003 does not provide to bill the consumer at HT rate for crossing the demand beyond specified limit and at the rate other than determined by GERC.

3.5 He further in context to MGVCL Technical Circular No.75 quoted Electricity Ombudsman order in case No.67/18 and in para No.13 of his application that bills under HT category cannot be issued to LTMD category and para 14 " GUVNL has notified that any circular contrary to GERC rules and regulations should be ignored.

3.6 He further contended that after receipt of MGVCL's letter dtd.21.8.17 (para 19 of application)actual demand has not exceeded contract demand.

3.7 He has referred the Clause No.2.21 of GERC Notification No.2 of 2011 and requested that as a natural justice Suo-motu estimate to be cancelled.

4.0 The respondent has represented the case as under:

4.1 The respondent Shri N.B.Dhanalia, Deputy Engineer, Limbasi s/dn MGVCL contended that actions are taken for billing as per Technical Circular No.75 as the maximum demand has exceeded 5% of the contract demand during the FY15-16 and 16-17 .

4.2 .Further as per the revised guidelines of Technical Circular no.75 issued vide letter no. MGVCL/RA&C/HT/audit/Rev/716, dated 03.07.18 the benefit of amendment is allowed to the complainant for exceeding the

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contract demand for 4 times during the FY 16-17 .However for the fifth violation onwards the net amount of Rs.96579.83 is to be recovered being bills served as per HT tariff for the Month of Feb'17 & March'17.

4.3 The supplementary bill issued in past on the basis of Internal Audit para is cancelled subsequent to forum order at circle level and credit adjustment of Rs.696165.14 given in the consumer account .The HT estimate is debited in the consumer account.

5.0 The Forum Members present at the hearing have gone through the written submissions made by both the parties and considered contention of both the parties and perused the records which are available, following findings are made, as under:

5.1 From the records , the First Notice dtd.30.03.15 and 27.04.15 has been served to the complainant showing month wise details of the maximum demand recorded in excess of contract demand for more than 10% and 100Kw during particular billing months and it was mentioned in the notice that as per GERC's Tariff order and Supply Code 2005 he has to give undertaking within 15 days (though 30 days prescribed in circular) and apply for HT supply. It was also mentioned and warned that if he does not wish to avail HT supply then he has to maintain the demand within permitted limit of 100 Kw else power supply would be disconnected in case of reoccurrence.

5.2 There has been no response from the complainant and whenever maximum demand observed in excess of Contract demand in the subsequent months, notices have been issued on dated 13.04.16, 28.06.16, 29.11.16, 26.04.17

5.3 The complainant has respondent only after receipt of notice dtd.01.07.17, intimation to make payment of Audit bills ,vide application dtd.10.08.17 raised objection against the issue of supplementary bill

5.4 Notice of 30 days given on dtd.21.08.17 to complainant for regularization of the excess load for exceeding the contract Demand for more than the limit of 5% & beyond 100KW for 6 (six) times during the FY 2016-17 i.e month of April 16 and from Nov'16 to March'17.

5.5 It is mandatory as per Clause No. 4.95 of Supply Code,2015 to observe 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 to issue a 30 days notice for submission of application form for enhancement of load. In this case complainant has not observed his contracted demand within permissible limit of 5% of its contracted demand and even after receipt of first notice dated 30.03.15 he had not applied for enhancement of load

5.6 Suo motu process initiated and HT estimate issued on dtd.30.10.17 for regularization of contract demand for 125 KVA as per Clause 4.95 of GERC's Electricity Supply Code Regulations, 2015

Clause No.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.....

5.7 The complainant has exceeded the demand repeatedly and has failed to maintain the demand within permissible limit despite intimation to restrict contracted demand or to apply for extension of load.

5.8 The HT estimate has not been paid within one month and on request of the complainant time limit extension for making payment of estimate granted up to 29.12.18

5.9The complainant has quoted clause 3.5.1 of GERC's supply code 2005 to serve notices of 30 days to reclassify from LT to HT and 21 days show cause notice if required may disconnect power supply after considering the submission but not authorized to bill under another tariff category. The procedural lapse on part of the respondent does not absolve the complainant to regularize the excess demand and just because the connection had not been disconnected.

5.10 The complainant has been given the benefit of revised guidelines of Technical circular 75 for exceeding the contract demand for four times in the FY 16-17.

5.11 As seen from the records the maximum demand recorded for the month of June-17 is 103 KW which is 11% more than the contracted demand during the FY 17-18.

ORDER

6.0 The Forum Members present at the hearing considered contention of both the parties and has come to the conclusion that the bills amounting to Rs. 96579.83 for the month of Feb'17 & March'17 by the respondent Deputy Engineer (O&M) Limbasi subdivision of Madhya Gujarat Vij Co Limited, to the complainant Shri Ashokbhai Ramabhai Bharvad ,Jalaram Rice Mill is in order. The actions initiated to issue HT estimate for regularization of excess load vide letter dated 30.10.2017 is in order as per clause 4.95 of Supply Code, 2015 .

(H R Shah)	*(A G Shaikh)*	*(Smt Mala Y Shah)*
Technical Member	*Independent Member*	*Chairperson*

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach Ombudsman only after payment of minimum 33% of the bill amount issued to the *party in question.* ***The Office address of the Ombudsman is*** *: The Staff Officer, Office of the Electricity Ombudsman, Gujarat Electricity Regulatory Commission, Barrack No.3, Polytechnic Compound, Ambawadi, Ahmedabad 380 015 in accordance with Clause No.2.63 Chapter-2 of GERC Notification No.2 of 2011.*

Procedure to make representations before Ombudsman***

1. Representation should be in writing duly signed by the complainant with his name and address.
2. Representation should be supported with affidavit.
3. True copy of order of Forum and original complaint made before Forum should be attached. Enclosed documents should be certified copies of the original documents.
4. The representation before Ombudsman should be submitted within 30 days from the date of order of Forum.
5. Copy of representation should be submitted at the office of Ombudsman. Copy of representation should be submitted to all respondents.
6. If the complainant is required to pay any amount according to the order of Forum, one-third of such amount should be deposited by complainant and proofs should be attached along with the representation.
7. The matter should not be pending before the competent Forum or any other court, tribunal, arbitrator or any other authority.
8. All representations should be with a sufficient cause, reasonable diligence causing the consumer prima facie loss and damages / inconvenience.
9. Representation may be submitted in English or Gujarati language

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