CGRF formed under the provision of IE Act 2003, sub clause 42(5) as well Notification No.2/2019 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-I-07-2024-25
Complainant	M/s. Ami Lifesciences Pvt Ltd., 2nd floor, Prestige Plaza 40, Urmi Society, Nr Urmi Cross Road, Vadodara 390020
Respondent	Shri T C Vyas, Executive Engineer, Jambuva Division office, MGVCL
Date of hearing	20.05.2024 at Corporate office, MGVCL Vadodara

QUORUM	NAME
Chairperson	Shri S P Trivedi, Vadodara
Technical Member	Shri B J Desai, (RA&C) MGVCL Vadodara

The complaint dated 24.04.2024 regarding discrepancies in electricity bills from M/s. Ami Lifesciences Pvt Ltd. HT con No.13601 for their unit located at Block No.82/B, ECP Road, At & Post : Karakhadi, Tal: Padra, Dist: Vadodara..

1.0 On 20.05.2024, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri J A Parekh & Shri R K Sakariya, appeared on behalf of complainant M/s. Ami Lifesciences Pvt Ltd., whereas Shri T C Vyas, Executive Engineer, Jambuva Division office, 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 M/s. Ami Lifesciences Pvt Ltd.is a 4000 KVA HT consumer No.13601 for their unit located at Block No.82/B, ECP Road, At & Post : Karakhadi, Tal: Padra, Dist: Vadodara.The connection was released on 1/8/2007 for manufacturing purpose.

2.2The complainant had complained for some discrepancies in their enegy bills to the respondent Executive Enginer (O&M) Jambuva division office of MGVCL on 11.03.2024 but no response from them till date.Hence the complaint is submitted to CGRF for the following.

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2.2.1 To charge Electricity Duty on electricity consumption of staff quarters at 7.5% instead of ED recovered @15% on the entire consumtion and excess recovered amount of Electricity Duty to be given as credit.

2.2.2 As per Gujarat Electricity Duty Act, 1958, the duty is to charge on consumption only and not on demand charge and difference is to be refunded to them.

2.2.3 To provide rebate of Power factor charges in Energy bill up to Feb'2019 as per tariff order and additional amount recovered is to be refunded in the ensuing energy bill.

2.2.4 As per tariff order, during billing period, prorate charges cannot be considered and hence, the bill for April 2016 to be calculated as per new tariff and differential amount is to be given as credit.

3.0 The representative of the complainant contended that -

3.1 The complainant has 4000 KVA HT connection bearing consumer No.13601 in the name of M/s. Ami Lifesciences Pvt Ltd., for their unit located at Block No.82/B, ECP Road, At & Post : Karakhadi, Tal: Padra, Dist: Vadodara. The connection was released on 1.8.2007.

3.2 The complainant had applied for discrepancies in their enegy bills to the respondent Executive Enginer (O&M) Jambuva division office of MGVCL on 11.03.2024 but no response from them till date.

3.3 HT connection uses for their manufacturing plant and for lighting for their staff quarter. As per Gujarat Electricity Duty Act, 1958, for the industries in the rural area, Electricity Duty for staff quarter is 7.5%. To measure, electricity uses for staff quarter, separate meter was already installed. Electricity Duty charged by respondent MGVCL for staff quarters is 25% and 20% respectively which is not as per Act 1958.

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The represented to charge Electricity Duty for staff quarters at 7.5% and excess recovered amount of Electricity Duty to be given as credit. Now onwards, in all the bills Electricity Duty for staff quarters to be charged at 7.5%.

3.4 As per Gujarat Electricity Duty Act, 1958, Section 15 (iv) (a) (b) only on consumption eletricity duty is to be charged. In their electricity bill, Electricty Duty Act 1958 is not followed and on demand charge, 15% duty is charged.

The Gujarat Electricity Duty Act, 1958, SCHEDULE-I, PART-I (3), 'where an industrial under taking consumes high tension energy; 15% percent of consumption charges is to be charged and clarify as under:

i. Where no energy has been consumed by a consumer, minimum charges payable by him shall not be deemed to be consumption charges.

ii. Where the units of energy actually consumed by a consumer are less than the units of energy for which prescribed minimum charges are payable "consumption charges" shall, in the case of such consumer, mean the charges for the units of energy actually consumed by him and not the prescribed minimum charges.

As per above clarification, on minimum charge Electricity Duty is not to be charged. As per GERC Tariff order, demand charge is to be charged as minimum charge. Respondent MGVCL is charging 15% Electricity Duty on demand charges which is to be excluded.

As per Gujarat Electricity Duty Act, 1958, Electricity Duty is to be charged on consumption only i.e. excluding fixed charges. For example, Electricity Duty charged for bill of Feb 2017 and actual charged to be refunded as per below mentioned table.

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	DATA	CHARGES	AS PER BILL	TO BE BILLED	DIFF TO BE REFUND
DEMAND CHARGE	1020		214500.00	214500.00	0.00
ENERGY CHARGE	578580	4.2	2430036.00	2430036.00	0.00
NIGHT REBATGE	192000	0.4	-76800.00	-76800.00	0.00
TOTAL EC			2353236.00		
FCA	578580	1.76	1018300.80	1018300.80	0.00
PF REBATE		-2.45%	-57654.28	-59535.88	1881.60
TOU	192495	0.85	163620.75	163620.75	0.00
TOTAL BILL			3692003.27	3690121.67	1881.60
ELECTRIC DUTY	557915	15%	534020.53	502722.56	31297.97
	20665	25%	32966.59	9310.34	23656.25
METER			750.00	750.00	0.00
NET BILL			**4259740.40**	**4202904.57**	**56835.82**

Infact, as per Gujarat Electricity Duty Act, 1958, the duty is charged on consumption only and not on demand charge. Thus, Rs.512032.91 Electricity Duty is to be charged whereas MGVCL have recovered Rs.5,66,987.13 which is higher and difference is to be refunded to them.

3.5 Power Factor rebate as per GERC tariff order, was not given upto Feb 2019 in electricity bills from their bill, night rebate was deducted from energy charges and there after PF was given.

As per GERC tariff order, PF rebate / penalty is to be charged on energy charges. GUVNL vide letter No.161 dated 29.5.2018 has issued circular and at Point No.4 of the circular, narrated that

"PF adjustment charges / rebate

As per billing programme, PF adjustment / rebate, charges are calculated @ 1% / 0.5% on the total amount of bill, for the monlth under the head "Energy Charges less night concession. However, in terms of provision of

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GERC tariff schedule PF adjustment / rebate charges is to be charged @ 0.5% / 1% of on the total amount of electricity bill".

Accordingly, IT department shall action to modify the billing programme for PF adjustment charges / rebate on the total amount of bill for that month under the head of "Energy Charges" only without taking into account night concession / time of use charges.

Thus, it is clear that same provision was existing before March 2019 also and hence requested to provide PF rebate upto Feb 2019 as per above referred GUVNL letter and additional amount recovered is to be refunded in the ensuing energy bill.

In same type of matter, of M/s. Farmson Pharmaceuticals Gujarat P Ltd., Case No.43 of 2023 and M/s. Plasten India Limited, case No.54 of 2023, Hon'ble Electrcity Ombudsman has ordered in favour of consumer.

3.6 MGVCL had billed energy charges on prorata basis due to reduction in energy charges and demand charges on increased rate of demand charges in the bill of April 2016.

As per GERC tariff order, charges as per new tariff order is to be charged from April 2016 onwards. General clause No.11 of the tariff order is "The Fixed charges, minimum charges, demand charges, meter rent and the slabs of consumption of energy for energy charges mentioned shall not be subject to any adjustment on account of existence of any broken period within billing period arising from consumer supply being connected or disconnected any time within the duration of billing period for any reason.

Thus, as per tariff order, during billing period, prorate charges cannot be considered and hence, the bill for April 2016 to be calculated as per new tariff and differential amount is to be given as credit.

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Considering applicability of tariff order w.e.f. April 2016, calculation of bill from April 2016 is as under:

	CHARGES	AS PER BILL	TO BE BILLED	DIFF TO BE REFUND
DEMAND CHARGE		193500.00	214500.00	-21000.00
ENERGY CHARGE	4.55	2495493.00	2303532.00	191961.00
FCA	1.35	740421.00	789782.40	-49361.40
PF REBATE	-2.45%	-61139.58	-56436.53	-4703.05
TOU	0.85	154224.00	154224.00	0.00
TOTAL BILL		3522498.42	3334099.87	188398.55
ELECTRIC DUTY	15%	528374.76	467939.98	60434.78
METER		750.00	750.00	0.00
NET BILL		**4051623.18**	**3802789.85**	**248833.33**

As per their calculation, MGVCL has to give credit of Rs.1,19,11,358.21 and it is credited to our next energy bill with interest from that payment.

4.0 The respondent has contended as under:

4.1 The complainant referred that Electricity Duty at the rate of 20% /25% were applied to the staff quarter consumption instead at the rate of 7.5% as per rural area norms, resulting in an overcharge. In this regard, they refer to the Electricity Duty Act 1958, Schedule I Part II, which states:

"Where any dispute arises—

(i) Whether any undertaking is an industrial undertaking or a new industrial undertaking or an additional unit of the industrial undertaking;

(ii) Whether any premises are used by an industrial undertaking for residential purpose or any other purpose;

(iii) As to the item in this Schedule under which any consumption of energy falls;

(iv) Where energy is consumed for different purposes, as to what portion is consumed for any particular purpose; the dispute shall be referred for

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decision to such authority as the State Government may, by notification in the Official Gazette, specify and different authorities may be specified for different areas of the State."

As per this provision, it is evident that the matter at hand falls under the jurisdiction of the State Government. Therefore, the consumer must seek resolution from the appropriate governmental authority as stipulated in the Electricity Duty Act 1958. The respondent also clarified that at present no separate meter is existing to record staff quarters' electricity consumption.

4.2 M/s. Ami Life Science complained that Electricity Duty should not be levied on Minimum Charges as per The Gujarat Electricity Duty Act 1958 provision, and demands a refund of the entire amount charged, along with accrued interest.

In response to the legal provision cited by the complainant under The Gujarat Electricity Duty Act, 1958 section 15(iv) (a) (b), it is noted that our existing billing system has incorporated the logic outlined in (a) & (b) as per their company policy.

Further they would like to draw attention to case 07/2024 before the Ombudsman authority, wherein it was clarified in Para 4.7 that as per the letter from the Electricity duty Inspector D/સૂચન/Pgvcl/2019/28883 dated 13.12.2019 that previously levied electricity duty charges are non-refundable. Hence, the demand for a refund cannot be entertained based on existing legal provisions.

4.3 The consumer requested rebates on power factor bills dating back to February 2019. In accordance with the directive GUVNL/COM/Tariff/2018-19/611 dated 29.05.2018, adjustments were made to rectify discrepancies observed in the HT billing program. Rebate / charges are to be implemented prospectively from the issuance date of the directive accordingly. We may revise PF adjustment from the date of GUVNL directives 29.05.2018 to Feb 2019 bill.

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4.4 M/S Ami Life Science insist on recalculating the April 2016 bill based on the revised tariff effective from April 1, 2016, and seeks reimbursement.

Referring to Para 11 of the tariff order 2016, which stipulates that billing adjustments within a billing period are impermissible, it is clear that billing must be conducted in accordance with the rates effective at the commencement of the billing period, as outlined in regulatory directives.

Additionally, as per the supply code definition: "Billing Period' refers to the nominal period between two consecutive meter reading dates. It may be monthly or any other period as may be adopted by the Distribution Licensee". So the authority vested in the distribution licensee as per the legal provisions as outline by the regulatory commission.

In view of the above, the demand for a refund of Rs.1,19,11,358/- is deemed unsustainable.

5.0 The Forum Members present at the hearing considered contention of both the parties and perused the records and considering them in detail, findings are as under:

5.1 In applicant's bill, 15% Electricity Duty (ED) is charged on total consumption. The complainant had claimed levy of 7.5% electricity duty on consumption on staff quarterers when MGVCL was charging 15% ED on entire consumption. Respondent defended that the dispute on the rate of levy of ED falls within the jurisdiction of the state Govt.

Applicant's complaint for ED calculation for staff quarters at 7.5% and refund of excess amount paid is under Gujarat Electricity Duty Act 1958, Schedule 1, Part 1(3) and other provisions are under the jurisdiction of Collector of Electricity Duty Gandhinagar and hence applicant may submit his complaint to them.

5.2 The comlpainant has represented that respondent MGVCL has charged demand charges in the bill of April 2016 on prorata basis on account of reduction of charges.They submitted that as per GERC tariff order, charges as per new tariff order is to be charged from April 2016 onwards. General clause No.11 of the tariff order is "The Fixed charges, minimum charges, demand charges, meter rent and the slabs of consumption of energy for energy charges mentioned shall not be subject to any adjustment on account of existence of any broken period within billing period arising from

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consumer supply being connected or disconnected any time within the duration of billing period for any reason. Thus, as per tariff order, during billing period, prorate charges cannot be considered and hence, the bill for April 2016 to be calculated as per new tariff and differential amount is to be given as credit.

Respondent MGVCL has submitted that as per Para 11 of the tariff order 2016, billing adjustments within a billing period are impermissible, it is clear that billing must be conducted in accordance with the rates effective at the commencement of the billing period, as outlined in regulatory directives.

As per the supply code definition: "Billing Period' refers to the nominal period between two consecutive meter reading dates. It may be monthly or any other period as may be adopted by the Distribution Licensee". On going through tariff order, 2016 & supply code provisions the billing carried out for April'2016 seems to be in order.

5.3 PF adjustment charges / rebate

GUVNL, Vadodara vide letter No. GUVNL/COM/Tariff/2018-19/611 dated 29.05.2018, issued ditrectives as under,

"As per billing programme, PF adjustment / rebate, charges are calculated @ 1% / 0.5% on the total amount of bill, for the monlth under the head "Energy Charges less night concession. However, in terms of provision of GERC tariff schedule PF adjustment / rebate charges is to be charged @ 0.5% / 1% of on the total amount of electricity bill for that month under the head Energy Charges only without taking into account night concession.

Accordingly, IT department shall take actions to modify the billing programme for power factor adjustment charges/rebate on the total amount of Electricity bill for that month under the head Energy Charges only without taling into account night concession /Time of use charges".

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As per Tariff order FY 2018-19 of H'ble GERC for MGVCL,

Power Factor Adjustment Charges & Penalty for poor Power Factor:

a) The power factor adjustment charges shall be levied at the rate of 1% on the total amount of electricity bills for the month under the head "Energy Charges, for every 1% drop or part thereof in the average power factor during the month below 90% up to 85%.

b) In addition to the above clause, for every 1% drop or part thereof in average power factor during the month below 85% at the rate of 2% on the total amount of electricity bill for that month under the head "Energy Charges", will be charged.

Power Factor Rebate:

If the Power Factor of the consumer's installation in any month is above 95%, the consumer will be entitled to a rebate at the rate of 0.5% (half percent) in excess of 95% power factor on the total amount of electricity bill for that month under the head "Energy Charges", for every 1% rise or part thereof in the average power factor during the month above 95%.

Respondent MGVCL, in hearing submitted that power factor Rebate/penalty were calculated after deduction of Night Rebate from Energy charges and GUVNL has directed vide letter dtd 29.05.2018 for necessary modification in HT billing system and accordingly MGVCL has made change in HT billing program since March'19 and error was rectified from March'2019 onwards.

In view of the above, Respondent MGVCl, Jambuva should verify the Electricity bills issued after 29.05.2018 to the Feb 2019 bill as per directive issued by the GUVNL dated 29.05.2018 as per GERC's tariff order FY 2018-19 and calculation of Rebate/penalty to consumer be done and to be adjusted in next Energy Bill.

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5.4 The complainat referred to GERC tariff order that charges as per new tariff order is to be charged from April 2016 onwards. General clause No.11 of the tariff order is "The Fixed charges, minimum charges, demand charges, meter rent and the slabs of consumption of energy for energy charges mentioned shall not be subject to any adjustment on account of existence of any broken period within billing period arising from consumer supply being connected or disconnected any time within the duration of billing period for any reason. Thus, as per tariff order, during billing period, prorate charges cannot be considered and hence, the bill for April 2016 to be calculated as per new tariff and differential amount is to be given as credit. As per complainant's claim considering applicability of tariff order w.e.f. April 2016, MGVCL has to give credit of Rs.1,19,11,358.21 and it is to be credited to their next energy bill with interest from that payment.

As per respondent's defend, as per the supply code definition: "Billing Period' refers to the nominal period between two consecutive meter reading dates. It may be monthly or any other period as may be adopted by the Distribution Licensee". So the authority vested in the distribution licensee as per the legal provisions as outline by the regulatory commission.

ORDER

6.0 The Forum has come to the conclusion that -

6.1 M/s. Ami Lifesciences Pvt Ltd., 2nd floor, Prestige Plaza, 40, Urmi Society, Nr Urmi Cross Road, Vadodara 390020, has represented that their staff quarters electricity consumption to be charged at 7.5% Electricity Duty as per rural area norms and the excess amount paid at 20% / 25% to be refunded. As per Gujarat Electricity Duty Act, 1958, Schedule 1, Part 1 (4) where energy consumed for different purpose, the dispute shall be referred for decision to the Electricity Duty Inspector, hence, complainant may represent their case to the appropriate Electricity Duty Authority.

6.2 Electricity Duty should not be levied on minimum charges. The Electricity Duty Inspector vide their letter No.28883 dated 13.12.2019, hence clarified that previously levied Electricity Duty charges are not refundable and as mentionled in 6.1, it is under the jurisdiction of Electricity Duty Department, Gandhinagar.

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6.3 GUVNL vide letter dtd 29.05.2018 issued directives for necessary modification in HT billing system and accordingly MGVCL has made change in HT billing program since March'19. Respondent MGVCl, Jambuva should verify the Electricity bills issued after 29.05.2018 to the Feb 2019 bill as per directive issued by the GUVNL dated 29.05.2018 and as per GERC's tariff order FY 2018-19 and calculation of Rebate/penalty to consumer be done and to be adjusted in next Energy Bill.

6.4 Electricity bill for the month of April 2016 calculated by respondent is in accordance with GERC's Tariff order effective from 01.04.2016. Moreover, as per Supply Code, 2015, Clause No.2.3(10) definition of billing period as under:

> *"billing Period refers to the nominal period between two consecutive reading dates. It may be monthly or any other period as may be adopted by the Distribution Licensee. However, this shall not be less than one calendar month and more than two calendar month."*

(B J Desai)	SPTrivedi
Technical Member	***(S P Trivedi)***
	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.3.19 (viii) of GERC Notification No.2 of 2019.*

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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