

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

Subject	Consumer Grievances Complaint No.MG-II-28-2015.16
Complainant	M/s. Sun Developers, 35 Goyagate Society, Near Ramkrishna Block, R V Desai Road, Pratapnagar, Vadodara
Respondent	Shri K R Shah Deputy Engineer and Shri H R Shah Junior Assistant, Baranpura s/dn of MGVL.
Date of hearing	07.08.2015 & 21.08.2015 both at Vadodara

QUORUM	NAME
Chairperson	Shri P J Patel, Gandhinagar
Independent Member	Harsha S Chauhan, Vadodara
Technical Member	Shri A G Shah, MGVL

The complainant dated 1/8/2015 regarding refund of infrastructure electrification charges.

On 7/8/2015 & 21/8/2015 the case of complainant grievances was heard before Consumer Grievance Redressal Forum wherein Shri Indravadan Bhailalbhai Patel, power of attorney holder of "Sun Developers" a partnership firm appeared on 21/8/2015 whereas Shri K R Shah Deputy Engineer and Shri H R Shah Junior Assistant, Baranpura sub-division appeared on both days as respondent on behalf of MGVL before the Forum. Both the parties were heard.

The brief details of the case are as under:

1. Complainant is a partnership firm in the name of "Sun Developers" doing business of construction having their office at 35, Goyagate Society, Near Ramkrishna Block, R V Desai Road, Pratapnagar, Vadodara
2. The present grievances is for new electrification to their constructed 32 residential flats & 7 shops at "Sun Heights" Goyagate Society, Near Ramkrishna Block, R V Desai Road, Pratapnagar, Vadodara
3. The complainant had applied for electrification on dated 25.01.2014 & estimate issued for infrastructure work of Rs.9,89,004/- was paid on dated 01.03.2014.
4. All premises (flats & shops) were not sold at the time of application.

5. The infrastructure works completed by MGVCCL on dated 14.04.2014 and at the time of release vij connection to individual flat and shop owners, MGVCCL has given another estimate under the heading 'service connection charges' which includes Service connection charge plus Registration charge, Security Deposit & test report charge.
6. As per GERC Regulation No.9 of 2005, the charge recovered under the name of "Infrastructure" should not be recovered from the applicant. It should be refunded.
7. In past, the case was heard by "Lok Darbar" on 16.10.2014 wherein ordered in favor of respondent.
8. Similar grievances case between M/s. Shree Associates V/S Deputy Engineer, MGVCCL, V.V.Nagar sub-division ordered by Hon'ble Electricity Ombudsman, Ahmedabad, Gujarat to refund infrastructure charges. Copy of the order submitted in support of this case.
9. The complainant requested the Forum to give justice & order to refund infrastructure amount with interest.

The representative of the complainant contended that the "Sun Developer" is engaged in the business of Building Construction works. There was old building at the present location which was demolished and constructed new flats & shops and demanded for electrification. The officer of MGVCCL sub-division office located at Baranpura, Vadodara area forced to first apply and pay for Infrastructure works. Accordingly, the estimate issued was paid on dated 01.03.2014. The electrification from common energy metering bay to individual flat/shop done by the builder. While demanding for individual connection by them, the MGVCCL, again issuing estimate flat/shop wise under the heading 'Service Connection Charges'. Immediately they had raised the issue with MGVCCL and thereafter the case was also heard in 'LOK-DARBAR' at Vadodara but in vain. Aggravating with the dual charges being recovered from them for the same purpose i.e. LT residential & commercial connections, approached to the Forum expecting justice and refund of charges recovered with interest. In support of their case, the order for Case No. 152/2013 issued by Hon'ble Electricity Ombudsman, Ahmedabad submitted to the forum.

The respondent contended that the builder wanted to develop their infrastructure before individual applicants demanded for electric connection therefore the cost of infrastructure was applicable when he applied for development of electrical infrastructure without any application from individual consumers. Thereafter when individual applicants applied for connection service connection charges were applicable as only few connections were demanded and that also after the electrical infrastructure

was completed. It is also guided by their corporate office circular No.46 dated 01.07.2014 & 48 dated 09.07.2014. In instant case, as soon as the construction works is completed, the builder had applied for electrification of infrastructure. As no individual had applied for connection at that time, it was considered to develop HT infrastructure up to the 11 KV distribution transformer to be erected nearer to the area and 200 KVA transformer and related HT line was proposed and issued infrastructure estimate. The estimate was paid by the developer on dated 01.03.2014. The infrastructure work completed on 14.04.2014. Thereafter, individual connections were demanded for electric connection in the name of individual from June 2014 to August 2014. (Only 11 nos out of 47 units proposed). As this is subsequent additional work after completion of HT line as no charges were recovered towards SC charges, SD charges, submission of test report etc. So estimates were issued in the name of individual applicants for payment against Service Connection charges - fixed charges. As on dated 19.08.2015, only 26 nos vij connections are released. If the developer had not asked electrification, MGVCCL would not have incurred expenditure towards infrastructure cost prior to individual demand arises. Before actual demand, it is not economical for MGVCCL to develop infrastructure for the entire future demand. The live line upto the distribution transformer consumes power in terms of line loss. Normally, MGVCCL develop HT / LT / distribution transformer as per actual demand and subsequently updating it as and when required. Therefore, recovery of infrastructure cost and service connection charges are correct and also as per the guidelines issued by the corporate office, MGVCCL Vadodara.

The Forum Members present at the hearing considered contention of both the parties and perused the records and observed that the developer had demanded power supply prior to sale of constructed flats and shops. As reported by MGVCCL, till 19.08.2015, only 26 nos of Vij connections out of 46 vij connections demanded are released. The infrastructure work was completed on 14.04.2014 for total load demand of 130 KW. The action taken by both the parties are not economical. As per Section 42 (1) of Electricity Act, 2003, the licensee need not to create distribution network where there is no consumer to be supplied. This was clarified through GERC direction vide letter no. GERC/Tech/2014/1193 dated 03.06.2014 "licensee should insist for application of electricity connection for the number of premises that developer has planned for And recovery should be made according to the commission's order dated 30.12.2010. However, this clarification was received after the above work of infrastructure was already executed in April 2014.

In instant case the developer had asked for electrification before actual individual requirement, i.e. average total demand of 130 Kw. It is assumed future load demand. The utility cannot take any renovation/updating of network without actual connected load (based on submission of Test report.

The builder/developer wanted to keep all infrastructure facility available at the door step of their premises so that the flats/commercial premises can be sold very fast. The builder/developer constructing nos of premises cannot be treated as individual consumer provided applies for individual premises. In this case the developer has demanded for approximate load for their whole developed premises. Hence without demand for any individual connection, the cost of electrical infrastructure development recovered from the developer seems alright.

In view of the above discussion, the Forum is of the opinion that the infrastructure charges recovered from the developer is in order as a special case.

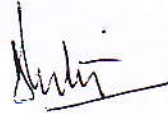
ORDER

The Forum directs the complainant M/s. Sun Developers, 35 Goyagate Society, Near Ramkrishna Block, R V Desai Road, Pratapnagar, Vadodara, that charges recovered by MGVL are in order.

The forum also directs the M.G.V.C.L to strictly follow GERC notification no. 9 of 2005, GERC guidelines issued in respect of recovery of service connection charges time to time.

(A G Shah)
Technical Member


(Harsha S Chauhan)
Independent Member


(P J Patel)
Chairperson

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach 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

*** <http://www.gercin.org/docs/Cosumer%20Grievances/Procedure/Procedure.pdf>