

**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-III-38-2015.16
Complainant	Sr Divisional Electrical Engineer, Traction Distribution, Western Railway, Ratlam (MP)
Respondent	Shri M V Patel, Executive Engineer (O&M) Dahod of MGVCL and Shri P N Shah, Deputy Engineer (HT-2) of MGVCL, Corporate office, Vadodara.
Date of hearing	20.11.2015 at Vadodara

QUORUM	NAME
Chairperson	Shri P J Patel, Gandhinagar
Independent Member	Harsha S Chauhan, Vadodara
Technical Member	Shri P K Agrawal, MGVCL Vadodara

The complaint dated 04.10.2015 (recd on 05.11.2015) electricity Bill of Limkheda Traction s/s, consumer No.41160.

On 20.11.2015, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein representative Shri V K Meghraz, Shri S K Jadav & Shri Sunilkumar Gupta appeared on behalf of complainant Sr Divisional Electrical Engineer, Traction Distribution Western Railway, Ratlam (MP) whereas Shri M V Patel, Executive Engineer (O&M) Dahod of MGVCL and Shri P N Shah, Deputy Engineer (HT-2) of MGVCL, Corporate office, Vadodara appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

The brief details of the case are as under:

1. Complainant has demanded 10000 KVA EHT power supply at Limkheda TSS under Dahod (O&M) Division, MGVCL.
2. Complainant has paid registration charges of Rs.25,000/- on dated 12.08.2011. Estimate for catering 10000 KVA load at 132 KV EHT power supply at Limkheda TSS was issued on date 11.01.2012.

3. Complainant entered into an agreement with MGVCCL on dated 08.02.2012.
4. Work was executed by GETCO and after intimation for completion of the work, Release order notice was issued to the party vide No.1183 dated 17.09.2013 by RPAD. In above said Release Order notice, it is clearly mentioned to avail 10000 KVA power within two months from the date of issue of the notice, failing which minimum bill for contract demand will be billed after expiry of two months from the date of issue of this Release Order.
5. The complainant failed to avail power within the notice period so MGVCCL has started to issue Minimum bill after expiry of two months i.e. from Nov 2013. The Complainant has objected for the same. As same are not being paid by the complainant, it is accumulated of Rs.3,74,62,849.00 with Delayed Payment Charges (DPC), as on 20-11-2015

The representative of the complainant contended that: .

1. The initial contract agreement was executed as per GETCO & MGVCCL letter dated 06.01.2012 and 11.01.2012. In the referred letter, it was advised to railway that initial HT contract agreement shall be executed within 15 days of payment of estimate charges otherwise application will be liable for cancellation. The agreement was executed on 8.2.2012 between MGVCCL Vadodara and the Sr. Divisional electrical Engineer Traction Distribution Western Railway DRM office Ratlam (M.P.).
2. Even though railway did not indicate any date of commencement of supply after signing the agreement, since work of TSS as well as 132 KV transmission line was not completed, MGVCCL unilaterally issued order to start supply within 60 days of the issue of the office order and on expiry of this notice period on dated 18.11.2013 MGVCCL started raising energy bills against connection of LMK TSS. IT was objected by them vide letter no.EL/C/W/554 dated 04.12.2013. However, no reply was given by MGVCCL.

As per provisions of GERC Electricity Supply Code & Related Matters Regulations, Notification 11 of 2005, commencement of supply within 7 days of approval of the applicant's installation, the distribution licensee authorized person shall commence supply of power to the applicant under intimation to him. However, overall time frame for release of new connection mentioned in Standard of Performance of licensees issued by GERC shall be complied with by distribution licensee. If the applicant fails to avail of the power within period of 60 days, he shall be liable to pay the demand charges and minimum monthly charges as applicable. Designated authority of distribution licensee may, in special circumstances, extend the above period of 60 days. They had demanded for extension vide their letter No. EL/C/W/554 dated 17-10-2013 but same is not approved by the MGVL authority vide letter No. MGVL:EHT:TSS:LKD:TMN:1383 dated 18/11/2013.

3. The electrical equipments installed at LMK / GSS for 132KV supply and metering purpose are not jointly tested with railway representative for which railway has paid estimated amount. These equipments are required to be tested jointly before releasing 132 KV supply as railway has to pay bill as per metering equipments provided at LMK / GSS.
4. As per letter No.ACE/RA&C/EEC/25 dated 06.01.2012, Rs.27,37,292.90 has been charged in detailed estimate against deposit work for erection of 132 KV feeder bay but no work has been executed at LMK / TSS against above deposit amount.
5. Installation of LMK/GSS of GETCO was not ready at the time of commencement of supply on account of proper phase sequence.
6. The charges since Nov 2013 against LMK TSS consumer No.41160 for minimum bill, DPC and arrears should be waived off and the power supply of LMK / TSS should be released only after correcting phase sequence which has not been yet corrected.

The respondent contended that:

- 1) There is mis-interpretation of the provision of clauses of agreement executed by the complainant with MGVL. Only partial sentence is mentioned in their representation. It is requested to go through whole provision wherein it is clearly mentioned at page No.2, para 2(a) that ".....date of commencement of supply shall be the date of expiry of the said 60 days period or the date of actual commencement of supply whichever date is earlier and from such date, the consumer shall become liable to pay the Distribution licensee the amount of minimum guarantee as hereinafter provided...". Moreover, provision is also made at Cl. No.5.6.1 of Notification No11 of 2005 issued by Hon'ble GERC in this regards which shall be considered wherein it is clearly mentioned that *"If the applicant fails to avail of the power within the period of sixty days from such intimation, he shall be liable to pay the demand charges and minimum monthly charges as applicable"*. Further to, the condition 9 of the agreement titled Minimum Guarantee Period, responsibility of payment of charges of electrical energy consumed or monthly minimum charges in consideration of special for the benefit of the consumer.
- 2) As per letter issued by Dy Chief Electrical Engineer(C) of W.Railway, Ratlam vide No. EL/C/W/554 Dtd.27.05.2013 that Railway side work is likely to be completed by 15th June'2013 and also requested to expedite the work of 132 KV transmission line for LMK/TSS to avoid the delay.

Further, it is to bring to your kind notice that there is no provision in Supply code to ask the date of commencement to the applicant.

Regarding the reply of their letter No.EL/C/W/554 Dtd. 04.12.2013 it was given to the applicant by EE,Dahod vide letter No.DHD/O&M/REV/H/8168 Dtd.11.12.2013 by RPAD for which acknowledgement receipt is also received.

- 3) Representation of the complainant for partial provision of clause no.5.6.1 of GERC Supply Code quoted by him is misleading as this part of clause is applicable for the cases where supply is to be released physically. In the instant case, since the complainant has not submitted certificate of Electrical Inspector for his installation, question of installation approval does not arise and hence power supply was not physically released. In the case, second para of clause No.5.6.1 of Electricity Supply Code and Related Matters Regulations, Notification No.11 of 2005 is applicable which reads as under:

"If the applicant fails to avail power within the period of sixty days from such intimation, he shall be liable to pay the demand charges and minimum monthly charges as applicable".

Moreover, the different clauses of GERC Supply Code Notification No.11 of 2005 may also be referred as under:

Clause no.5.4.1

"Upon receipt of the completion and Test Report of LT installations or /and Test Certificate of the concerned Electrical Inspector for HT/ EHT installation in accordance with Rule-63 of the Indian Electricity Rules, 1956, the Distribution Licensee shall notify to the Consumer or to his authorized representative the date and the time when the Distribution Licensee's representative proposes to inspect and test the installation. It will then be the duty of the Consumer to arrange and ensure that electrical supervisor or his electrical contractor is present at the time of inspection to give the Distribution Licensee's representative any information required by him concerning the installation. The above provisions shall also apply to any installation that remains disconnected/ unconnected for a period exceeding 6 months if it is LT and 12 months if it is HT/EHT".

It clearly shows that question of installation's inspection arise only where certificate of concerned Electrical Inspector is submitted.

Clause no.5.4.3

"No HT connection shall be made unless the installation has been inspected, tested and certified by Electrical Inspector. Distribution Licensee shall not be responsible for maintenance or testing or wiring on Consumers Premises."

4) As provided under the Clause No.5.4.1, the applicant has to submit the necessary test report which is also intimated to the applicant vide L.No.MGVCL:EHT:New:RO:1183 Dtd.17.09.2013. Only after submission of test report, DISCOM has to process to give electrical connection physically. It is clear that the failure is on part of the applicant. Test certificate of the Electrical Inspector as per provision in clause No.5.4.1 is not submitted till date.

5) There is no provision in supply code for joint testing with consumer of electrical equipments installed by DISCOM/GETCO.

Further, metering equipments are being tested with help of HT AQ check meter at the time of physical release of connection in presence of the applicant/Representative of the applicant and the copy of the Inspection report sheet shall be given to the applicant.

6) The demand of extension beyond TMN period was not approved by the competent authority of MGVL vide letter No. MGVL:EHT:TSS:LKD:TMN:1383 dated 18/11/2013. In absence of required documents as briefed above and no approval for further extension beyond 60 days as stipulated in the GERC Supply code, the said connection was released as "Un-connected" on completion of two month notice period. The connection treated as deemed released.

- 7) GETCO has submitted work completion report for said consumer vide their letter No.SE(R&C)/EE-C/DE/31/Limkheda/1415 Dtd. 16.09.2013. in which so called lacuna in question is not mentioned. Further, phase sequence and related parameters are being checked only on commencement of physical supply and which can be rectified if found not proper.
- 8) Arrears amount cannot be waived off. The said connection can only be physically released after submission of necessary test report by consumer along with payment of arrears. Provision made at 4.1.11 of Notification No11 of 2005 issued by Hon'ble GERC is reproduced hereunder

"An application for new connection, reconnection, addition or reduction of load, change of name or shifting of service line for any premises need not be entertained unless any dues relating to that premises or any dues of the applicant to the Distribution Licensee in respect of any other service connection held in his name anywhere in the jurisdiction of the Distribution Licensee have been cleared."

The Forum Members present at the hearing considered contention of both the parties and perused the records and observed that

- 1) As per provision of 5.4.1 of GERC Notification no.11 of 2005 the applicant has neither submitted test report within the Release Order notice period nor got approval for its extension.
- 2) The GERC Supply code clause 5.6.1 stated that *"Within seven days of approval of the applicant's installation, the Distribution Licensee's authorized person shall commence Supply of power to the applicant under intimation to him. However, the overall time frame for release of new connection, mentioned in Standard of Performance of Licensee issued by GERC separately, shall be complied with by the Distribution Licensee. If the applicant fails to avail of the power within the period of sixty days from such intimation, he shall be liable to pay the demand charges and minimum monthly charges as applicable"*.

- 3) From above it clear that the applicant has not got approved his installation within the period of 60 days notice period. The stipulated seven days period for commencement of supply of power starts from the submission of these documents as per Supply Code clause No. 5.6.1. Also as per the provision of same clause - the applicant shall be liable to pay the demand charges and minimum monthly charges as applicable - hence physical supply not released but considered as deemed released to start minimum charge billing.
- 4) The un-connected consumer's billing started after completion of TMN period is as per rules.
- 5) Provision made at 4.1.11 of Notification No.11 of 2005 issued by Hon'ble GERC is reproduced hereunder:

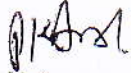
"An application for new connection, reconnection, addition or reduction of load, change of name or shifting of service line for any premises need not be entertained unless any dues relating to that premises or any dues of the applicant to the Distribution Licensee in respect of any other service connection held in his name anywhere in the jurisdiction of the Distribution Licensee have been cleared."

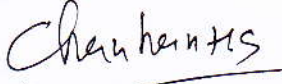
Hence as per above provision the connection can only be physically released after submission of necessary test report by consumer & payment of arrears.

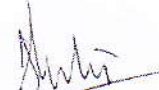
The forum is of the opinion that the MGVCCL is liable to recover the minimum billing charges as stipulated in the GERC Supply Code considering the connection as deemed released.

ORDER

The Forum directs the Sr. Divisional Electrical Engineer, Traction Distribution, Western Railway, Ratlam (MP) to pay the arrears towards unconnected release of the connection.


(P K Agrawal)
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>