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-16-2018-19
Complainant	Kantaben Rajendrakumar Thakkar, Proprietor M/s. Yogikrupa Rice Mill, Malawada Chawkdi, At & Post : Limbasi, Tal: Matar, Dist: Kheda
Respondent	Shri N.B.Dhanalia, Deputy Engieer, Limasi s/dn of MGVCL
Date of hearing	08.01.2019 at Corporate Office, MGVCL Vadodara, 30.01.2019 at Nadiad Circle Office, 15.02.2019 at Corporate Office, MGVCL Vadodara & 13.03.2019 at Nadiad Circle Office

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

1.0 The complaint dated 12.12.18 regarding withdrawal of supplementary bill issued under HT tariff for LTMD connection of 90.5 KW amounting to Rs.2,50,271.20 & to cancel suomotu estimate letter for HT connection dated 26.10.2017.

2.0 The complainant was given hearing dates on 08.01.2019 at Corporate Office, MGVCL Vadodara, 30.01.2019 at Nadiad Circle Office, 15.02.2019 at Corporate Office, MGVCL Vadodara but he did not remain present for hearing and asked time limit. Final notice to remain present for hearing was given on 13.03.2019 at Nadiad Circle Office and wherein Shri Nitesh Thakkar remain present on behalf of complainant Kantaben Rajendrakumar Thakkar, Proprietor of M/s. Yogikrupa Rice Mill whereas Shri N.B.Dhanalia,, Deputy Engieer, Limasi s/dn appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

2.1 The brief history of the case is as under:

2.2 The complainant Kantaben R Thakkar, is having LTMD connection in the name of M/s. Yogikrupa Rice Mill bearing consumer No.050801/02205/3, having contract demand of 90.5 KW located at Malawada Chowkdi, Vastana Road, under Limbasi subdivision.

2.3 As per the guidelines conveyed in Technical Circular No.49(A) dated 28.07.14 and Technical circular 75, dtd.01.04.16, supplementary bill for differential amount of LT to HT tariff for Rs.603570.18 issued to the complainant as the maximum demand recorded during Nov-15 (106 KW), May-16 (106 KW), Dec-16 (112 KW) , Jan-17 (108 KW) & Feb-17 (117 KW), found more than 5% of contract demand. Notice dated 26.04.17 for excess demand during FY 2016-17 was issued by Deputy Engineer, Limbasi s/dn and accordingly, suomotu estimate of Rs.847778.00 was issued by SE (O&M) MGVCL Nadiad on 26.10.17 as per clause No.4.95 of Supply Code 2015.

2.4 Aggrieved from supplementary bill as well as suomotu estimate as shown in Point No.2.3 above, consumer approached CRC at circle office Nadiad and hearing was carried out on 23.8.18 in presence of his representative Shri Nitesh Thakkar and Dy Engr. Limbasi S/dn, MGVCL wherein the CRC, as per the guidelines conveyed in Technical Circular No.49(A), Technical circular No.75 and guideline letter No. MGVCL/RA&C/HT/ audit/Rev/716, dated 03.07.18 revised the supplementary bill served for Rs.603570.18 to Rs.250271.20. The remaining amount to be credited in consumer account. The HT estimate issued for Rs.847778.00 found to be in order vide Order No.NDC/Rev/CRC/ 4778 dated 31.8.18 .

2.5 Aggrieved with the decision of Complaint Redressal committee of circle level, the complainant approached CGRF Vadodara vide application dated 12.12.2018.

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.265/-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 3300 V.

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 in tariff order fixed from time to time.

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.

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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 FY 15-16 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 contract demand for 4 times during the FY 16-17. However, for the fifth violation onwards the net amount of Rs.250271.20 is to be recovered being bills served as per HT tariff for the Month of Jan 17 & Feb'17.

4.3 The supplementary bill issued in past is cancelled subsequent to forum order at circle level and credit adjustment of Rs.353298.98 (for Nov-15, May-16 & Dec-16) 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 various notices dtd.13.04.16, 28.06.16, 29.11.16, 26.04.17 & 21.08.17 has been served to the complainant showing month wise details of the maximum demand recorded in excess of contract demand for more than 5% and 100 KW during particular billing months and it was mentioned in the notice to apply for HT supply as per clause No.4.95 of Supply Code 2015 and to pay the supplementary bills issued under HT tariff.

Even after, repeated notices as narrated in 5.1 above, consumer did not come up to make payment or to apply for HT connection and hence suomotu procedure started and HT estimate of Rs. 847778/- was served to avail HT power supply for 150 KVA as per clause No.4.95 of GERC's Supply Code 2015 "*..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....*". In turn of it, consumer approached CRC at circle level and in CGRF at Corporate level.

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5.2 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% and even after receipt of final notice dated 21.08.17, he had not applied for enhancement of load.

5.3 Earlier, in case of M/s. Jalaram Rice Mill, (Case No.3/2019) and for Shree Chhotaudepur Mineral Merchants' Association, (case No.67/2018) Ombudsman has ordered that **"supplementary bills issued to the appellants for the difference of amount of billing for LTMD category to HT category are not sustained in accordance with the provision of Supply Code 2015 and prevailing tariff order. Therefore, respondent is directed to cancel the supplementary bill so issued".**

5.4 In view of above decision of Ombudsman, which are also note challenged in higher legal Forum, this Forum is of the view that stand taken by respondent vide Technical circular No.75 dated 1.4.16 and guidelines given vide letter No.MGVCL/716 dated 03.07.18 is not in accordance with the provision of supply code 2015 the HT billing suggested by respondent is not having any support from provision of supply code 2015 as well as tariff order issued by GERC as both the tariffs i.e. LTMD & HT tariff are different one and defined separately by GERC in tariff order. Without following laid down procedure as mentioned in clause No.4.95 of supply code 2015 respondent cannot issue the supplementary bill to appellant under HT tariff category and cannot recover the difference of charges between LTMD & HT Tariff.

ORDER

The Forum Members present at the hearing considered contentions of both the parties and has come to the conclusion that the (1) bills amounting to Rs.250271.20 for the month of Jan'17 & Feb'17 by the respondent Deputy Engineer (O&M) Limbasi subdivision of Madhya Gujarat Vij Co Limited, be adjusted to the complainant Kantaben Rajendrakumar Thakkar, Proprietor of M/s. Yogikrupa Rice Mill, Malawada Chawkdi, At & Post : Limbasi, Tal: Matar, Dist: Kheda, (2) in the case of excess maximum demand recorded in the FY 2016-17, 2017-18 appellant's request to remain in LTMD category is not considered and has to avail HT supply by paying HT estimate issued of Rs.847778.00 as per clause No.4.95 of GERC Supply Code 2015.

(Smt S H Parekh)	*(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.3.17 (viii) Chapter-3 of GERC Notification No.2 of 2011".*

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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

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