BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR

Petition No. 1988 of 2021.

In the Matter of:

Petition under Clause 3.46 of Consumer Grievances Redressal Forum and Ombudsman Regulations, 2019, Notification No. 2 of 2019 for non-implementation of the Order passed by the Electricity Ombudsman Ahmedabad in Case No. 24 of 2020 on the expiry of 30 days period from the date of receipt of the Order by the Respondent Executive Engineer, Division Office, Anjar, Kutch.

And

IA No. 43 of 2024 in Petition No. 1988 of 2021

In the Matter of:

Application seeking urgent listing/ hearing on behalf of the Applicant/ Petitioner in Petition No. 1988 of 2021.

Applicant/Petitioner	:	M/s Manaksia Coated Metals & Industrial Limited
Represented By	:	Ld. Adv. Mr. Aaditya Dave along with Mr. Atul Dambhara
		V/s.
Respondent	:	Executive Engineer, Division Office Paschim Gujarat Vij Company Limited
Represented By	:	Ld. Adv. Mr. M.R. Dave and Mr. V. N. Gameti

CORAM:

Pankaj Joshi, Chairman

Hiren Shah, Member

Date: 06/03/2026.

ORDER

1. The present Petition has been filed by the Petitioner M/s Manaksia Coated Metals & Industries Limited under Regulation 3.46 of the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 for non-implementation of the Order of the Electricity Ombudsman, Ahmedabad, by the Respondent on the expiry of 30 days period of the Order passed. The Petitioner has made following prayers:

   (a) To direct the Respondent to comply with the order dated 15.03.2021 passed by Hon'ble Ombudsman in case no. 24/2020.

   (b) Respondent to be directed to start the billing as per 1500KVA contract demand or as per actual consumption with immediate effect and should be immediately directed to revise the Electricity bill dated 17.04.2021 & 18.05.2021 as per 1500 KVA.

   (c) Respondent should be directed to refund or give credit of excess payment made by Petitioner from 26.06.2018 to till date in next bills.

2. The brief facts of the case as stated by the Petitioner in its Petition as well as in the submission dated 29.11.2022 are as under:

2.1. The Petitioner is a High Tension consumer having a contract demand of 1500 kVA. The Petitioner was suffering frequent interruptions on the 11 kV supply and also required extension of load. Looking to the non-availability of quality power, the Petitioner was advised to go for a 66 kV HT supply line to meet its additional load requirement. Accordingly, on 20.03.2017, the Petitioner applied for an extension of load from 1500 kVA to 4100 kVA on 66 kV system.

2.2. For laying the new 66 kV line, three options were available. The Petitioner was compelled to opt for *Option-III*, under which the entire liability of executing the 66 KV line was on the consumer. A kick-off meeting was held on 01.09.2017 with GETCO officials, fixing the timeline of 180 days from the date of payment of charges for completion of the line work by the Petitioner.

2.3. The Petitioner submitted that in the course of executing the line erection work of 66 kV line from the Khokhara 66 KV Substation to the Petitioner's premises, there were Right of Way (RoW) issues and caused resistance by the land owners. GETCO had issued notices on 08.11.2017 and 23.12.2017 to the concerned land owners regarding construction of the transmission line and appropriate compensation for the damage that may be caused due to installation of towers and lines. As the resistance continued, GETCO addressed a communication to the Ld. Collector, Bhuj on 27.12.2027 requesting intervention and necessary orders to resolve the RoW issues. The Petitioner also independently appealed to the Ld. Collector by letter dated 02.02.2018 to expedite adjudication of the RoW issues.

2.4. The Petitioner further submitted that Ld. Collector had directed the Mamlatdar by letters dated 01.03.2018 and 13.03.2018 to inquire and report on the RoW obstructions. The Petitioner even expressed willingness to pay any lawful compensation to affected land owners, however it did not come to any solution with the protesting farmers. With the situation unresolved, on 17.03.2018 the Petitioner requested GETCO to intervene and resolve the RoW issue. GETCO in turn pursued the matter with the Collector's office.

2.5. It is submitted that in view of the issues faced by the Petitioner which were beyond the control of the Petitioner as well as the contractor, the Petitioner issued a letter dated 30.03.2018 to the Respondent requesting that the line laying down was already commissioned and in view of the matter being sub-judice and being under consideration by the Ld. Collector, the Respondent should allow the Petitioner to continue load of 1500 KVA uninterrupted as per the sanctioned demand till such issues are resolved.

2.6. The Petitioner has submitted that despite the matter being sub-judice before the Ld. Collector for the grounds which were beyond the control of the Petitioner, the Respondent had issued a letter dated 25.06.2018 to the Petitioner threatening that it shall start raising a bill for 4100 KVA as deemed supply to the Petitioner in case the construction work was not completed.

2.7. In response to the Respondent's above letter, the Petitioner vide letters dated 10.07.2018 and 11.07.2018 urged the Respondent not to levy minimum demand charges on the basis of the deemed supply, in view of the fact that only the third tranche of the work was remaining which also could not be completed. Further, the Petitioner also informed and reiterated that the reason for non-completion of the work was known to the Respondent that such non completion was attributable to reasons which were beyond the control of the Petitioner. The Petitioner addressed the Ld. Collector again on 19.07.2018, informing that an illegal demand charges had been implemented upon the Petitioner due to non-completion of the work, and requested the Ld. Collector to adjudicate the RoW issues in

earliest time period. On 24.07.2018, the Petitioner again intimated the Respondent and requested it to revise the deemed supply as has been imposed upon the Petitioner. It was stated that with reference to the deemed supply and extended minimum demand, a letter was already submitted to the Chief Engineer (Tech), Rajkot, PGVCL for extension of the time limit.

2.8. It is submitted that the Petitioner approached to the Ld. Collector again vide letters dated 25.10.2018 and 29.04.2019 to reschedule RoW hearing at the earliest in view of the incomplete work. Further, the Petitioner also raised its concern that the said RoW problems are causing grave impact on the billings of deemed supply illegally attributed to the Petitioner.

2.9. The Petitioner further addressed communications to the Respondent vide letters dated 03.12.2018 and 10.12.2018 pursuant to its earlier request for extension of time and to stop the minimum billing of 4100 KVA.

2.10. It is stated that the Ld. Collector upon receipt of such letters of GETCO, adjudicated the dispute between the parties and in accordance with law passed Orders dated 24.07.2019 and 03.08.2019. Whereby, the Ld. Collector directed the protesting farmers to not impede or cause any hurdles in laying down the aforesaid line. The Ld. Collector also permitted the Petitioner to avail police protection if, necessary.

2.11. Despite various representations having been made before the Respondent, when the illegal demand was not stopped and on the

contrary the Petitioner was threatened with disconnection, the Petitioner submitted letters dated 04.09.2019, 24.12.2019 and 13.01.2020 to the Respondent stating that the Petitioner shall pay the excess amount charged in the invoices, however, under protest. The Petitioner further pointed out in the said letters that it shall be entitled to refund of the same owing to the illegality of the demand.

2.12. Aggrieved by the action of the Respondent, the Petitioner approached the Consumer Grievances Redressal Forum (CGRF), PGVCL. The CGRF, vide its Order dated 14.02.2020, rejected the Petitioner's grievance and upheld PGVCL's action.

2.13. The Petitioner thereafter filed representation before the Electricity Ombudsman, Ahmedabad on 12.03.2020, challenging the CGRF's decision. Upon hearing the parties, the Electricity Ombudsman passed an Order dated 15.03.2021, relevant verdict of the Order is reproduced as under:

> *"4.13. In the Circumstances observed above, line erection works are not completed by the Appellant under the objections received by the land owners & related disputes were filed before the Competent Authority i.e., Collector/ District Magistrate, Bhuj & in said dispute order/directives were passed by the Collector/District Magistrate on 03.08.2019. The said works are not completed. In this circumstance time period attributed towards dispute redressal mechanism against objection raised by the Land owners needs to excluded from the Specified time period.*

4.14. Respondent should have to be billed as per the contract demand of 1500 KVA till the time of directives/orders passed by the Competent authority against the objections raised by the land owners as far as Line erections dispute involved under option III, i.e., works to be carried out by the Appellant.

4.15. On the other hand, Appellant has to carry out the remaining line works as per directives/order passed by the Collector/District Magistrate, Bhuj within specified time frame of 180 days. Completion of specified time period of 180 days on payment of estimate excluding time attributed towards legal dispute mechanism. Respondent should have to issue 60 days' notice to the Appellant as per the provision of Supply Code 2015 and should see that notice delivered to Appellant as per the provision of Electricity Act, 2003. thereafter billing should be started with 4100 KVA contract demand of Appellant.

4.16. I order accordingly."

2.14. Thereafter, a review application had been filed by the Respondent against the Ombudsman's Order, which was rejected by the Ombudsman vide Order dated 13.05.2021 and thereby confirming the conclusions of the Order dated 15.03.2021.

2.15. The Petitioner has stated that on 19.03.2021, immediately after the Ombudsman's Order, it wrote to the Respondent, requesting implementation of the Order dated 15.03.2021. Despite this, in the electricity bills dated 17.04.2021 and 18.05.2021 the Respondent continued to levy charges based on a 4100 kVA demand and did not

refund or adjust the excess amount that had been collected since 26.06.2018.

2.16. The Petitioner, thereafter, submitted various letters dated 10.05.2021, 25.05.2021, 23.06.2021 and several others to the Respondent reiterating that it is paying the bills under protest on basis of the deemed supply which has been illegally calculated. However, despite having an Order of the Electricity Ombudsman governing the dispute and having attained finality, the Respondent acting in a completely arbitrary and illegal manner did not give effect to the said Order.

2.17. The Petitioner referred to the relevant provisions of GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 Notification No.: 2 of 2019, which reads as under:

> *"3.44. The Licensee shall duly comply with and implement the decision of the Ombudsman within 30 days of issue of the Order.*
>
> *3.45. Non-compliance of the Ombudsman's Orders shall be considered as violation of these Regulations and shall be liable for appropriate action by the Commission under Sections 142 and 146 read with Section 149 of the Act..*
>
> *3.46. The orders of the Ombudsman shall be final and binding on the parties. No party can file an appeal before the Commission against the order. However, the rights of complainant and Licensee to file an appeal before the judicial bodies shall remain protected"*

2.18. The Petitioner further stated that the Respondent has not complied with and not implemented the decision/Order of the Ombudsman within 30 days of issue of the Order. This action of Respondent has clearly shown that they have violated the provision of Gujarat Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 Notification No. 2 of 2019 and is liable for appropriate action by the Commission under Sections 142 and 146 read with Section 149 of the Electricity Act, 2003. The Order dated 15/03/2021 in Case No. 24/2020 passed by the Ombudsman is final and binding on Respondent.

3. The Respondent PGVCL, vide affidavits dated 08.12.2022, 31.08.2023, 11.01.2024 and 09.02.2026 has filed its submissions in the matter.

3.1. It is submitted that the Regulation 3.49 of the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 read as under:

> *"3,49. Except in cases where a review application has been moved under the Regulation 3.47 above by either of the parties, in the event of non-compliance/non-implementation of any order passed by the Ombudsman by either of the parties, the consumer may approach the Commission for the enforcement of the order within a period of 30 days of the passing of the order or from the expiry of the time granted for the implementation of the order by the Ombudsman, whichever is later. The Commission may issue any order (including an order imposing fines and penalties on the Licensees, as provided for under the Act) or take any other steps, as it deems appropriate for the enforcement of the order."*

3.2. It is contended that the Petitioner has filed the present Petition on 14.06.2021 which is beyond the 30 days period prescribed in the above Regulation, as well as the Order dated 15.05.2021 and therefore the present Petition may not be considered. The Petitioner has not filed any application seeking condonation of delay in filling the petition. As a settled principle, no matter how small a delay is, it has to condoned first.

3.3. It is contended that the Respondent has filed a Special Civil Application being No. 14431 of 2021 before the Hon'ble High Court of Gujarat seeking a stay of the execution, implementation and operation of Order dated 15.03.2021 review the Order passed on dated 13.05.2021 by the Electricity Ombudsman. In this regard the contention of the Petitioner that the Order of the Ombudsman has not been challenged is not factually correct. The claim of the Petitioner in terms of the Order passed by the Electricity Ombudsman is sub-judice before the Hon'ble High Court. The Commission may defer the proceedings till the decision by the Hon'ble High Court in SCA No. 14431 of 2021.

3.4. The Respondent is bona fide prosecuting its remedy by way of a Petition before the Hon'ble High Court. The Order of Electricity Ombudsman has not attained finality. If the case of the Petitioner is accepted, in all cases where the Order of Electricity Ombudsman are under challenge before the Hon'ble High Court, however no stay is granted; licensee would be liable to be prosecuted under Regulation 3.49. Same is not the intent of the statute.

3.5. It is further contended that it cannot be said that there is contempt committed by the Respondent with regard to the Order passed by the learned Ombudsman. The matter is sub judice and the Respondent is bona fide litigating the matter. The intent and purpose of Regulation 3.49 is to prosecute/penalize licensee who has deliberately flouted the order. Here, apart from the fact that there is no deliberate or intentional flouting, the entire matter is pending at large for consideration before the Hon'ble High Court of Gujarat. Thus, there arises no question of breach, much less a wilful breach, of the order passed by the learned Ombudsman. Thus, the present petition filed under Regulation 3.49 at the behest of the petitioner would not be maintainable and therefore, on the said ground, the petition may kindly be rejected with a liberty to the Petitioner to revive/file fresh petition after the disposal of the petition before the Hon'ble High Court of Gujarat.

3.6. It is contended that if the Respondent is directed to pay the amount to the Petitioner, the Respondent may face difficulty in recovering the said amount, if it succeeds before the Hon'ble High Court. Further, if the said amount is not recovered it will be a huge loss to the public exchequer at large.

3.7. It is further contended that after the payment of estimate by the Petitioner for load extension application, the Petitioner and PGVCL executed an agreement on dated 04.07.2017 under HTP-I Tariff. In terms of the Agreement, as well as per GERC Supply Code of the Commission, under Option-III the Petitioner had 180 days for erection of line and upon failure of the Petitioner to complete the

same, PGVCL can issue a notice to the Petitioner to avail power and upon expiry 60 days from the date of intimation the connection of the Petitioner shall be deemed to be released.

3.8. It is submitted that the Petitioner was informed to complete the work under Option-*III* vide letters dated 17.01.2018 and 27.02.2018. On 26.04.2018, Respondent issued a notice to the Petitioner in terms of Clause 4.33(2) of the GERC Supply Code and intimated the Petitioner to take power within 60 days of the notice. After completion of 60 days' notice period to avail power Respondent started the minimum monthly charges from 26.06.2018 as per applicable contract demand of 4100 KVA.

3.9. The Respondent submitted that Electricity Ombudsman passed the Order on 15.03.2021 and review Order passed on dated 13.05.2021, allowing the Appeal filed by the Petitioner herein and directing PGVCL calculate 180 days' time frame from order passed by the Collector/District Magistrate, Bhuj. Completion of specified time period of 180 days on payment of estimate excluding time attributed towards legal dispute mechanism. PGVCL should have issued 60 days' notice to the Petitioner as per the provision of supply code 2015 and should see that notice is delivered to Petitioner as per the provision of Electricity Act, 2003 thereafter billing should have started with 4100 KVA contract demand of Petitioner.

3.10. The Respondent further submitted that there are several patent errors in the Order dated 15.03.2021 and review Order dated

13.05.2021 passed by the Electricity Ombudsman, *inter-alia*, for the following reasons:

A. The Order passed by the Electricity Ombudsman is contrary to the provisions of the Electricity Act, 2003 as well as the Supply Code of the Commission and other allied Regulations. The Electricity Ombudsman being a creature of the statue is bound to decide matters in accordance with the provisions of the Electricity Act, 2003 and Rules and Regulations notified there under, including the Supply Code;

B. The Order is contrary to the terms of the Agreement dated 04.07.2017. The Electricity Ombudsman cannot rewrite the contract or agreement between PGVCL and the Petitioner,

C. The Electricity Ombudsman has not considered the salient aspect that the Petitioner was responsible for the delay in carrying out its scope of work. The Petitioner failed to complete construction of electricity line, within the time stipulated under the Agreement. In view of the Petitioner having not completed its scope of work, there has been no physical release of the connection of the Petitioner. However, there has been a deemed release of the Petitioner's connection w.e.f. from 26.06.2018 in terms of the Supply Code, and PGVCL has been billing, the Petitioner for HTP-I tariff, Contract demand of 4100 KVA. since then; and

D. Without prejudice to the above, even assuming for the sake for argument but not admitting that some relief is admissible to the Petitioner against PGVCL, the same has to be restricted to the

period for which PGVCL has been held responsible. The Electricity Ombudsman has ordered that the Petitioner has to carry out the remaining line works as per directives/order passed by the Collector/District Magistrate, Bhuj within specified time frame of 180 days. Completion of specified time period of 180 days on payment of estimate excluding time attributed towards legal dispute mechanism. PGVCL should have issued 60 day's notice to the Petitioner as per the provision of supply code 2015 and should see that notice is delivered to Petitioner as per the provision of Electricity Act, 2003 thereafter billing should have started with 4100KVA contract demand of Petitioner.

3.11. The Respondent has further contended that the Petitioner has drawn more than the sanctioned load. Though the petitioner is insisting that it should be charged for 1500 KVA demand, the fact remains that as per the record of the respondent, far more excess load than 1500 KVA has been consumed by the petitioner all throughout. Thus, factually when the petitioner has already consumed more than the contracted load and in fact all throughout consumed more load than the contract load, the present petition would not survive for consideration. Respondent has also annexed chart in support to this.

3.12. Without prejudice to the said contention and without prejudice to the contention that the Petitioner has already consumed more than the actual demand, the respondent, with a view to show its bona fide, is ready and willing to make fixed deposit of the amount and in case, ultimately the petitioner succeeds and/or so directed by the competent authority/Hon'ble High Court, the respondent may make

the payment of the said amount. It is pertinent to note that the actual load has already been released to the petitioner and the petitioner has already availed the actual load of 4100 KVA on 10th September, 2022. Thus, now the dispute would be whether the petitioner would be entitled to refund of the amount of difference from 26th June, 2018 i.e. the date of deemed release till the date of actual release i.e. 10th September, 2022. The difference of tariff between 1500 KVA which the petitioner wants to the charged and the deemed release of load i.e. 4100 KVA would be kept in fixed deposit by the present respondent subject to the final outcome/ order of the Hon'ble High Court of Gujarat, the same can be dealt with. This arrangement the Respondent proposes just to show its bona fide, otherwise as stated in the affidavits earlier, the petitioner has no case in the eye of the law.

4. The Petitioner vide affidavits dated 27.01.2024, 26.02.2024 and 12.04.2024, and through oral submissions during the hearings, submitted as under:

4.1. It is submitted that the Petitioner denies the Respondent's contention that the present petition is not maintainable in the eye of the law. It is stated that the petition has been filed under Clause 3.49 of Consumer Grievances Redressal Forum and Ombudsman Regulations, 2019, Notification No. 2 of 2019 for implementation of the Order passed by the Electricity Ombudsman Ahmedabad upon expiry of 30 days period from the date of receipt of the Order by the Respondent. Hence, the Petition is filed within the time limit and the same has been entertained by the Commission. Moreover, the prayers of the present Petition are also in accordance with the law seeking implementation of the Order of the Electricity Ombudsman.

4.2. It is submitted that at the time of filing of the Petition, there was a second wave of the Covid-19 pandemic and that the Hon'ble Supreme Court had, vide Suo Motu Order, suspended the limitation periods for filing of any suits, appeals, and other court proceedings.

4.3. It is submitted that the Respondent has made inaccurate and factually wrong statements. It is submitted that the Electricity Ombudsman had passed an Order to refund the amount charged on deemed supply of 4100 KVA since the line itself was not commissioned and RoW issues were pending. Moreover, even otherwise, the Electricity Ombudsman had directed the Respondent to grant the mandatory 60 days' Notice to the Petitioner herein before charging the Petitioner on basis of deemed supply, which admittedly has not been done. Hence, the Reply filed by the Respondent is baseless and without any merit.

4.4. It is submitted that the Respondent has disregarded the Order of the Electricity Ombudsman and started recovery of minimum bill for contract demand of 4100 kVA on deemed release basis instead of 1500 kVA from July 2018 to September 2022. The Respondent has itself admitted that it is only since September 2022 that the Petitioner has availed Contract Demand on 4100 KVA. Therefore, there is no justification for the Respondent to charge the enhanced contract demand on deemed supply from July 2018. Moreover, in face of the Order of the Ld. Ombudsman, the Respondent ought to have implemented the same and refunded the amount to the Petitioner.

4.5. The Petitioner submitted that the Respondent is putting efforts to prolong the present matter. The Order of Ld. Ombudsman, which has

attained finality, must be implemented without any excuse by the Respondent. Moreover, even the Hon'ble High Court has not granted any stay on the aforesaid Order of the Electricity Ombudsman. It is submitted that since the Hon'ble High Court of Gujarat has also specifically observed that the proceedings pending before GERC be concluded.

4.6. The Regulation gives power to the Commission for implementation of the Order and relief to the consumer, therefore, it is prayed that the Commission may be pleased to implement the Order passed by the Electricity Ombudsman with an immediate effect.

4.7. The Petitioner submitted that the Respondent is trying to misguide the Commission by making a plea of depositing security deposit as pre-condition for implementation of the order of the Ld. Ombudsman. While, referring to the Order dated 13.02.2023 passed by Hon'ble High Court, the Petitioner stated that allowance of any such plea of security deposit in lieu of enforcement of the Order of Electricity Ombudsman would tantamount to disregarding the Order dated 13.02.2023 of the Hon'ble High Court which specifically directed the Commission to decide the present matter. Hence, the plea of deposit of the security would amount to disobedience of the Order of the Hon'ble High Court.

4.8. The Petitioner submitted that the Respondent is wrongfully trying to mislead the Commission by stating that the Petitioner have taken supply for more than the contract demand. However, it is submitted that, the excess demand as taken from the Respondent is dealt with

under the Contract in a different manner and the same will have no bearing on the implementation of the Order of the Electricity Ombudsman. The Petitioner sought to place on record the details about Contact demand, Actual demand and other details during the period of July 2018 till September 2022.

4.9. It is submitted that even reckoning for the penalty for the excess demand, if any, during the aforesaid period, the Respondent has charged in excess from the Petitioner and hence, the Petitioner is entitled to a refund of a sum of Rs. 4,67,33,458.50/-.

4.10. The Petitioner submitted that the Section 62 (6) of the Electricity Act provides that, *"If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person* who *has paid such price or charge along with interest equivalent to the bank rate without prejudice to* any *other liability incurred by the licensee".* Accordingly, it is submitted that the Respondent has illegally retained the amount of the Petitioner despite the Ld. Ombudsman having directed the Respondent to refund the same to the Petitioner. Hence, the Petitioner is entitled to the interest on the said amount of refund at the rate of 18% p.a. and requested to direct the Respondent to refund an amount of Rs. 4,67,33,458.50/- along with 18% interest p.a. till the date of realisation.

5. Heard the parties. We note that the present Petition has been filed by the Petitioner due to non-implementation of the Order dated 15.03.2021 passed by the Electricity Ombudsman, Ahmedabad in Case No. 24 of 2020 by the Respondent.

5.1. We note that the present Petition has been filed by the Petitioner under the Regulation 3.49 of the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 seeking enforcement of the Order dated 15.03.2021 passed by the Electricity Ombudsman, Ahmedabad in Case No. 24 of 2020, as confirmed by Review Order dated 13.05.2021.

5.2. The Petitioner has referred to the Regulation 3.49 of the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019, which read as under:

> *"3.49. Except in cases where a review application has been moved under the Regulation 3.47 above by either of the parties, in the event of non-compliance / non-implementation of any order passed by the Ombudsman by either of the parties, the consumer may approach the Commission for the enforcement of the order within a period of 30 days of the passing of the order or from the expiry of the time granted for the implementation of the order by the Ombudsman, whichever is later. The Commission may issue any order (including an order imposing fines and penalties on the Licensees, as provided for under the Act) or take any other steps, as it deems appropriate for the enforcement of the order."*

Thus, under the aforesaid Regulation, liberty has been granted to approach the Commission for the enforcement of the order within a period of 30 days of the passing of the order or from the expiry of the time granted for the implementation of the order by the Ombudsman, whichever is later.

5.3. In the present matter, we also deem it appropriate to refer other relevant Regulations of GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019, as under:

> *"3.44. The Licensee shall duly comply with and implement the decision of the Ombudsman within 30 days of issue of the Order.*
>
> *3.45. Non-compliance of the Ombudsman's Orders shall be considered as violation of these Regulations and shall be liable for appropriate action by the Commission under Sections 142 and 146 read with Section 149 of the Act.*
>
> *3.46. The orders of the Ombudsman shall be final and binding on the parties. No party can file an appeal before the Commission against the order. However, the rights of Complainant and Licensee to file an appeal before the judicial bodies shall remain protected.*

5.4. We note that in terms of the Regulation 3.44, the Licensee is required to duly comply with and implement the decision of the Ombudsman within 30 days of issue of the Order. Further, Regulation 3.45 stipulates that non-compliance of the Ombudsman's Order shall be considered as violation of the Regulations and shall be liable for appropriate action by the Commission under Sections 142 and 146 read with Section 149 of the Electricity Act, 2003. The Regulation 3.46 clearly provides that the Order of the Ombudsman shall be final and binding on the parties.

5.5. We note that in the present case, it is not in dispute that the Electricity Ombudsman passed an Order on 15.03.2021 directing, inter alia, that billing should be as per 1500 kVA contract demand till the time of directives/orders passed by the Collector/District Magistrate against

the objection raised by the land owners and further prescribing the procedure to be followed before billing at enhanced contract demand of 4100 kVA. It is also not in dispute that the Review Application filed by the Respondent was rejected on 13.05.2021.

5.6. We note the that the main contention of the Respondent PGVCL for non-implementation of the that the Ombudsman's Order is that the said Order is under challenge before the Hon'ble High Court of Gujarat in the Special Civil Application filed by the Respondent PGVCL and that the matter is sub judice before the Hon'ble High Court.

5.7. Per contra, the Petitioner has submitted that despite specific stay on the operation of the Order of the Ombudsman was sought for by the Respondent PGVCL, Hon'ble High Court has not granted any stay. The Petition has placed on record oral Order dated 13.02.2023 of Hon'ble High Court of Gujarat in SCA No. 14431 of 2021, which read as under:

> *"RULE returnable on 15.03.2023. Mr. Rohan L Shah, learned advocate appearing for the respondent waives service of notice of rule.*
>
> *In the meantime, the proceedings before the GERC shall be concluded and orders made therein shall be subject to the outcome of the petition. Liberty to apply in case of difficulty."*

5.8. Therefore, it is an admitted position that no stay on the operation, implementation or execution of the Ombudsman's Order has been granted by the Hon'ble High Court. In absence of any stay, the Order of the Ombudsman continues to remain operative and binding between the parties. Mere pendency of proceedings before a superior judicial

forum does not automatically render the Order inoperative, unless specifically stayed.

5.9. We further note that the present proceedings are not in the nature of an appeal against the Ombudsman's Order. The Commission does not intend to re-examine the merits of the dispute relating to deemed release, interpretation of the Supply Code, contractual obligations, excess demand consumption or other factual aspects which are not subject matter of the present proceedings. Those aspects either stand concluded by the Ombudsman's Order or are under challenge before the Hon'ble High Court. We are of the view that the limited question before this Commission is whether the Respondent has implemented the Ombudsman's Order in terms of the Regulations or not?

5.10. As regards the preliminary objection of delay raised by the Respondent stating that the present Petition is filed on 14.06.2021 which is beyond the 30 days period prescribed under Regulation 3.49, the Commission notes the submission of the Petitioner that immediately after the Ombudsman's Order dated 15.03.2021, the Petitioner addressed communication dated 19.03.2021 and thereafter several letters requesting implementation of the said Order. This shows that the Petitioner has consistently pursued the matter with the Respondent seeking compliance.

5.11. The Commission further observes that the essence of the present matter is in regard to continuing non-implementation of the Ombudsman's Order. As per the pleadings on record, the fact remains that the Order of the Ombudsman has not been implemented by the Respondent, as no consequential refund/adjustment was made in terms of the Ombudsman's directions. In such circumstances, even

assuming that there was some delay, if any, in formally approaching the Commission beyond 30 days, the same cannot validate or legitimise the action of the Respondent PGVCL in continued non-implementation of a binding Order of the Ombudsman. The procedural timelines cannot be construed in a manner that permits perpetuation of a regulatory breach. Moreover, the conduct of the Petitioner in regularly corresponding with the Respondent seeking implementation of the Order of the Ombudsman reflects bona fide pursuit of the remedy. The cause of action in cases of non-implementation is a recurring and continuing one so long as the Order remains unimplemented. Therefore, the objection on the ground of delay, if any, for approaching the Commission does not merit acceptance in the peculiar facts and circumstances of the present case.

5.12. With regard the submission of the Petitioner seeking payment of interest on the alleged excess amount recovered by the Respondent, the Commission notes that the Ombudsman's Order dated 15.03.2021 does not contain any direction for payment of interest. The scope of the present proceedings being confined to enforcement of the Ombudsman's Order, this Commission cannot enlarge or modify the substantive relief granted therein. The Commission is not inclined to adjudicate independent claims relating to interest under Section 62(6) of the Electricity Act, 2003 in the present enforcement proceedings. Such claim, if any, would require independent adjudication in appropriate proceedings.

5.13. Similarly, the various contentions raised by the Respondent regarding alleged patent errors in the Ombudsman's Order, excess demand drawn by the Petitioner, stipulations under Option-III, etc, pertain to

the merits of the underlying dispute. As already clarified, the Commission is not sitting in appeal over the Ombudsman's Order and therefore the same are beyond the scope of the present proceedings.

5.14. The Commission is also conscious of the facts that the Respondent has challenged the Ombudsman's Order before the Hon'ble High Court. However, mere filing of a petition does not absolve the Licensee of its statutory duty to comply with a binding Order unless the same is stayed. The regulatory framework envisages time-bound implementation of Ombudsman's Orders so as to preserve the efficacy and credibility of the consumer grievance redressal mechanism. In absence of any stay by the Hon'ble High Court, the Respondent is statutorily obligated to implement the Order.

5.15. In view of the above, the Commission holds that the Ombudsman's Order dated 15.03.2021, as confirmed by Review Order dated 13.05.2021, is binding on the Respondent PGVCL and is required to be implemented in letter and spirit, subject to any order that may be passed by the Hon'ble High Court in the pending proceedings in SCA No. 14431 of 2021 filed by the Respondent PGVCL.

5.16. Accordingly, we direct the Respondent, PGVCL to give effect to the Order dated 15.03.2021 passed by the Ombudsman, Ahmedabad in Case No. 24 of 2020, as confirmed by Order dated 13.05.2021 in Review, within a period of 30 days from the date of this Order by giving consequential billing adjustments/refund/credit, as applicable, to the Petitioner in terms of the directions contained in the Ombudsman's Order. The Respondent PGVCL is also directed to file the compliance affidavit before the Commission in the matter within week thereafter.

5.17. It is clarified that the Commission has not examined or adjudicated upon the merits of the dispute which formed subject matter before the CGRF and the Ombudsman, nor has it expressed any opinion on the correctness or otherwise of the findings recorded by the Ombudsman. The present Order is confined solely to enforcement of the Ombudsman's decision under the applicable Regulations.

5.18. It is further clarified that, in absence of any specific direction for payment of interest in the Ombudsman's Order, no separate direction regarding interest is issued in the present proceedings.

5.19. We also make it clear that the directions contained herein in the present Order regarding implementation of the Order dated 15.03.2021 passed by the Ombudsman shall be subject to final outcome or any order that may be passed by the Hon'ble High Court of Gujarat in the pending SCA No. 14431 of 2021.

6. With the above decisions and directions the present Petition along with IAs, if any, stands disposed of.

7. Ordered accordingly.

Sd/-	**Sd/-**
[Hiren Shah]	**[Pankaj Joshi]**
Member	**Chairman**

Place: Gandhinagar.

Date: 06/03/2026.