

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1858 of 2020 alongwith IA No. 01 of 2020.

In the matter of:

Petition under Sections 42, 43, 50, 86 & other applicable provisions of the Electricity Act, 2003 read with the GERC (Electricity Supply Code and Related Matters) Regulations, 2015, GERC (Standard of Performance of Distribution Licensee) Regulations 2005 and other applicable Regulations of the Commission seeking grant of additional time for completion of 66 kV transmission line for 5000 kVA Contract Demand and consequently directing MGVCL to restrain from issuance of Two Months' Notice (TMN) to the Petitioner for levying demand charges on contract demand of 5000 kVA on deemed release basis.

Petitioner : Concord Biotech Limited

Represented by : Mr. D. S. Doshi alongwith Mr. Kalyan Patnaik

Vs.

Respondent No. 1 : Madhya Gujarat Vij Company Limited

Represented by : Ld. Adv. Kirti Soni alongwith Mr. A. R. Patel

Respondent No. 2 : Gujarat Energy Transmission Corporation Limited

Represented by : Ld. Adv. Kirti Soni alongwith Mr. Sajeev Nair and Mr. H. G. Karia.

CORAM:

**Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 21/08/2024.

Daily Order

1. The matter was listed for hearing on 28.06.2024.

2. At the outset Mr. D. S. Doshi appearing on behalf of the Petitioner submitted that the present Petition is filed under Sections 42, 43, 50, 86 and other applicable provisions of the Electricity Act, 2003 read with GERC (Electricity Supply Code and Related Matters) Regulations, 2015 (Supply Code), GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 (SoP) and other applicable Regulations of the Commission seeking additional time for completion of 220 kV transmission line for addition of 32 MVA Contract Demand and consequently directing MGVCL to withdraw bills levying demand charges on additional demand of 32 MVA on deemed release basis.

2.1. He submitted that the issue in the present Petition is that the new connection was demanded and opted option III to get work done of the transmission line by the Petitioner. He further submitted that as per the meeting with the GETCO at initial stages, it was requested to proposed the XLPE Aluminium under ground cable in the estimate. The estimate dated 04.06.2019 issued by GETCO in which the cost of under ground copper cable was proposed by the GETCO, therefore objection has been raised before GETCO to revise the estimate with considering the cost of XLPE Aluminium under ground cable. Further, vide letter dated 04.09.2019 request was made to revise the estimate with XLPE Aluminum cable, thereafter the revised estimate was received from GETCO on 14.11.2019 with the revised scope of work communicated to the Petitioner. Though the original estimate was paid on 13.07.2019 and also signed the power supply agreement on 05.08.2019 pending the issue for revision of estimate with modified scope of work. It is further submitted that the Respondent MGVCL and GETCO took too much time for revision of the estimate.

2.2. On the further query of the Commission that whether any objection being raised by the Petitioner after receipt of the estimate and subsequently why an agreement was signed with the Respondent. In regard to same, it is further submitted that the estimate dated 20.06.2019 was required to pay within one month otherwise same will be treated as cancelled, hence said

estimate was paid on 13.07.2019. Further, the Respondent MGVCL vide letter dated 26.07.2019 had called the Petitioner to execute Power Supply Agreement within seven days, accordingly the Petitioner had executed an agreement on 05.08.2019 with the Respondent No. 1 MGVCL. It is submitted that initially during the kick-off meeting with GETCO, it was requested to GETCO to permit the use of XLPE Aluminum cable and thereafter through letter dated 04.09.2019, it was intimated to GETCO to revise the estimate with considering the XLPE Aluminum cable.

2.3. The Respondent took so much time to revise the estimate for changing the cable type. It is further submitted that thereafter in the month of March 2021 due to COVID – 19 pandemic, lockdown was imposed and due to that the project line work got extended.

3. Ld. Adv. Ms. Kriti Soni appearing on behalf of the Respondents contended that the Petitioner has not filed any submissions on maintainability of the Petition. Also the Petitioner has never submitted or pleaded till date that delay occurred due to COVID – 19 pandemic. In the similar Petitions the preliminary issue of jurisdiction shall be decided by the Commission. The GERC (Electricity Supply Code and Related Matters) Regulations, 2015 (Supply Code) as well as GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 (SoP) do not permit the MGVCL to provide any time extension as sought by the Petitioner for completion of the line work under Option III. She submitted that the Petitioner has referred Regulation 4.86 of the Supply Code which clarifies that the consumer has to approach the Consumer Grievance Redressal Forum (CGRF) under the provisions of the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 (CGRF and Ombudsman Regulations) for any grievance of action or inaction of the distribution company. The Petitioner should approach CGRF which is specialized Forum for billing related disputes. She further submitted that the Hon. Supreme Court of India

has decided the jurisdiction of the Authority to deal with the cases dealt with the consumers. She referred the following case laws:

- a. MERC vs. Reliance Energy Ltd. (2007) 8 SCC 381 (Paras 13, 31 to 36);
- b. BSES Rajdhani Power Ltd. vs. DERC in Appeal No. 181 of 2008 decided on 30.03.2009 (Para 7 to 14);
- c. Rasmikaben Navinbhai Patel & Ors. Vs. UGVCL in SCA No. 18138 of 2016 dated 11.07.2022 (Para 7 and 8);
- d. Chhattisgarh State Electricity board vs. Raghuvir Ferro Alloys Ltd. (2006) APEL 134 Appeal No. 125, 126 and 127 of 2006 dated 28.11.2006 (Para 8, 9, 10).

3.1. She further submitted that there is no provision in the Supply Code to provide relief by the Commission for extension in timelines for completion of the line work under Option III. She further submitted that the reliance placed on the inherent powers of the Commission is also misplaced as it is well settled principle that the inherent power cannot override the express provisions of law. The Electricity Act, 2003 has granted the jurisdiction to CGRF for the dispute between the consumer and the licensee, hence the inherent powers of the Commission cannot be exercised to usurp the jurisdiction.

3.2. On the query of the Commission that is there any other law point, she replied that presently there is the question of Jurisdiction related issue.

4. In response to the said contentions of the Respondent, the Petitioner argued that as per the Supply Code, 2019 the inherent powers can be invoked by the consumer. As contended by the Respondent that the Regulation 4.86 of the Supply Code, 2019 is applicable for load enhancement only. He further submitted that in the present case of the Petitioner does not come under the purview of CGRF. As the present Petition is not billing related dispute between

the Petitioner and the Respondent, the Commission has to decide the present subject matter.

4.1. He referred to Section 42 (5) and (6) of the Electricity Act, 2003 and also the provisions of the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 (CGRF Regulations) and submitted that there are two ingredients which are to be fulfilled for the Petitioner to approach the CGRF having jurisdiction, (i) there has to be complaint against the concerned Distribution Licensee, and (ii) the nature of the complaint shall be defined in the definition of the complaint in the CGRF Regulations.

4.2. It is further submitted that the present case, the work of erection of the transmission line is undertaken by the Petitioner under Option – III on behalf of the Respondent No. 2 GETCO. The Petitioner had experienced the delays and the reasons which are attributable to the Petitioner/ Distribution Licensee MGVCL. As per the provisions of the Supply Code, 2019 the Petitioner had to complete the work as per the SoP time line failing which the Distribution Licensee can commence billing on deemed release basis after issuance of 60 days notice. Referring to Regulation 9.21 to 9.23 of Supply Code, the Commission has inherent powers to pass the Order and to relax and remove the difficulty. It is further submitted that under the provisions of the Supply Code, 2019 and SoP Regulations, only the Commission has the authority to grant the extension of time for completion of the transmission line.

5. We note that the Petitioner has argued that the present case falls under the purview of the Commission and not the CGRF. We note that there are other matters which are on similar lines hence, all the similar matters shall be kept together. The Petitioner and the Respondent are at liberty to file their submissions, if any, with a copy to other party, within 2 weeks time.
6. The Office of the Commission is directed to see that all such similar matters are listed together on next hearing before appropriate bench.

7. The next date of the hearing will be intimated separately.

8. Order accordingly.

Sd/-
(S.R. Pandey)
Member

Sd/-
(Mehul M. Gandhi)
Member

Place: Gandhinagar

Date: 21/08/2024.

