

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2023 of 2021.

In the matter of:

Petition under Section 42 read with Section 86 of the Electricity Act, 2003 and Regulation 32 of the GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011 for breach of GERC's Regulations by Respondent No. 1 and CERC (Deviation Settlement Mechanism), 2011 as adopted in the State of Gujarat and illegal issuance of supplementary bill dated 16.10.2021 and revised monthly bills by Respondent No. 1.

Petitioner : Shah Alloys Limited

Represented by : Ld. Adv. Mr. Gaurav Mathur with Adv.Mr. Abhishek Shah

V/s

Respondent No.1 : Uttar Gujarat Vij Company Limited

Represented by : Ld. Adv. Ms. Ranjitha Ramchandran along with
Mr. K. B. Chaudhari

Respondent No.2 : State Load Despatch Centre

Represented by : Ld. Adv. Mr. Utkarsh Singh along with Mr. Utpal I. Patel

CORAM:

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

Date: 26.11.2024.

DAILY ORDER

1. The matter was kept for hearing on 22.10.2024.

2. At the outset, Ld. Adv. Mr. Gaurav Mathur appearing on behalf of the Petitioner requested for deferment of hearing in the present matter and keep the hearing after six weeks, which was opposed by the Respondent, While providing a copy of suit filed by UGVCL before the Civil Court, he submitted that the Respondent UGVCL has filed recover suit against the consumer of Respondent UGVCL because otherwise limitation would have expired.

2.1. He submitted that in the present case issue of certain supplementary bills on the question which were raised on the basis of generating entity has under injected the power, the issue whether under injection of power by the generating entity, entitle them to treat as gaming or not and whether the State Energy Account (SEA) report would have been revised or not, which is a matter in which the Petition filed by the Respondent SLDC before the Commission and the said Petition is pending. Insofar as under injection of electricity as against the scheduled generation is concerned, the Respondent SLDC has preferred Petition No. 1930 of 2021 before the Commission. He further submitted that the Petitioner had filed reply in the aforesaid Petition which was filed by the Respondent SLDC and requested to hear both the Petitions together and therefore, he requested to keep the present Petition pending.

2.2. He further submitted that whether the principal issue of State Energy Account (SEA) published by the SLDC are subject to revision is to be decided first, the said Petition coming under the Three-Member bench and the present Petition coming under the Two-Member bench of the Commission. further, requested to keep the hearing of both the matters together.

2.3. He also submitted that Respondent SLDC has in its Petition No. 1480 of 2015 sought for a mechanism for recovering compensation from the consumers/ beneficiary under Open Access, where seller/generator under injected the energy. Referring to the Para No. 22 of Order dated.31.05.2024 in the said Petition No. 1480 of 2015, it is

submitted that the Commission has decided to form a committee of expert to providing comprehensive analysis and report for suitable framework for compensatory mechanism as per prayer sought by the Petitioner SLDC in the aforesaid Petition. He further submitted that the Respondent SLDC has preferred Petition No. 1930 of 2020 wherein the Respondent No. 1 is M/s SAL Steel Limited in which, on the ground of consistent under injection done by the Respondent No. 1 M/s SAL Steel Limited compared to schedule and claimed refund of amount of Rs. 85.60 Cr. He further submitted that the question arise here in the said Petition is for revision of State Energy Account (SEA). Referring to the above ground, Ld. Adv. of the Petitioner submitted that the supplementary bills issue by the Respondent UGVCL on the basis of revision of State Energy Account (SEA) to the Petitioner which would require first to decide the issue of inconsistent under injection by the seller/generator and whether revision of State Energy Account (SEA) is permissible under relevant Rules, Regulations and Act.

- 2.4. He submitted that Respondent UGVCL, during the pendency of the present Petition has preferred Civil Suit before the Civil Court at Kalol for recovery of amount due and payable under the supplementary bill along with the interest. He further submitted that Petitioner has filed an Affidavit and submitted the copy of Civil Suit filed by the Respondent UGVCL. In the aforesaid Civil Suit filed by the Respondent UGVCL, the Directors of the M/s Shah Alloys Limited as a concerned parties for the recovery of Rs. 380.73 Cr. under Section 56 of the Electricity Act, 2003. He further, submitted that the Respondent UGVCL has to prove that whether such amount is recoverable or not. By filing the Civil Suit before the Civil Court at Kalol by the Respondent UGVCL against the Petitioner, it seems that there are two parallel proceeding going on for the recovery of the amount.
3. Ld. Adv. Ms. Ranjitha Ramchandran appearing on behalf of Respondent UGVCL submitted that the Civil Suit filed before the Civil Court at Kalol is for recovery amount dues against the consumer of the DISCOM and not a suit for the adjudication under

section 86(1) (f) of the Electricity Act, 2003, wherein DISCOM cannot recover amount being a consumer of DISCOM. She further submitted that DISCOM has to follow the procedure for recovery of amount due from the consumer under the relevant Regulations/Act.

3.1. She further submitted that the Petition No. 1930 of 2021 filed by the Respondent SLDC is to take on record that the consistent under injection done by the generators. The Petitioner have not chosen to challenge State Energy Account (SEA) and its revision by the Respondent SLDC. Further, the Petitioner has not prayed to quash State Energy Account (SEA) and therefore, State Energy Account (SEA) stands valid today also. Hence, supplementary bills issued by the Respondent UGVCL is natural consequence of over drawl of energy from grid by the Petitioner from Respondent No. 1 UGVCL. The Petition No. 1930 of 2021 filed by the Respondent SLDC is for different aspect and no-one has challenged the State Energy Account (SEA).

3.2. She further submitted that the Petitioner is a consumer of the Respondent UGVCL, the Petitioner has been consuming the electricity wheeled through Open Access from its own group company – SAL Steel Limited. The electricity bills being raised by the Respondent is based on the State Energy Account (SEA) published by the Respondent SLDC from time to time. The State Energy Account (SEA) are published on periodic manner and are subject to revision from time to time. The revision of State Energy Account (SEA) is not disputed in the present Petition. She further, submitted that when the Respondent SLDC submitted that the Petitioner has consumed so much amount of energy from the generator then the balance energy drawn/consumed by the Petitioner/consumer is supplied by the distribution licensee i.e., Respondent UGVCL and the supplementary bill has been raised by the Respondent accordingly.

3.3. She further submitted that the Respondent UGVCL need to recover the amount as per the supplementary bills raised by the Respondent to the Petitioner/consumer which

is an actual supply by the Respondent No.1 UGVCL. The Civil Suit filed is for recovery of amount, and it is not adjudicating proceeding.

- 3.4. She further submitted that Petition No. 1930 of 2021 filed by the Respondent SLDC is for the completely different aspect, it is not for approval for State Energy Account (SEA), it is for consistent under injection (gaming) by the generating entity. Further, nobody has challenged the State Energy Account (SEA) published by the Respondent SLDC. She submitted that the as long as State Energy Account (SEA) stands, the supplementary bill issued by the Respondent UGVCL remains stand. She further agreed to file detail report on affidavit on the issue of recovery of the supplementary bill amount from the Petitioner by the distribution licensee.
4. Ld. Adv. Mr. Utkarsh Singh appearing on behalf of the Respondent SLDC submitted that Petition No. 1930 of 2021 pertains to the subsidiary company of the Petitioner- SAL Steel Limited, which is also the generating company supplying electricity to the Petitioner through Open Access, wherein consistent under injection is done by the generating company as compared with schedule was placed on record. He further submitted that Respondent SLDC has filed the written submissions and pointed out the details of schedule energy and actual energy on the yearly basis showing the under injection.
- 4.1. He further, submitted that the Respondent SLDC has sent several notices to the Petitioner with regard to the under injection of the electricity calling the Petitioner for explanation, but the Petitioner did not respond to even one notice which was sent by the Respondent SLDC.
- 4.2. He further submitted that present Petition has been filed challenging the supplementary bill raised by the Respondent UGVCL to the Petitioner and it is not for the Respondent SLDC to settle the commercial dispute between the parties.

5. Heard the Parties. We note that the Petition is filed by the Petitioner under Section 42 of the Electricity Act, 2003 with Section 86 of the Electricity Act, 2003 read along with Regulations 32 of the GERC (Terms and Conditions of Intra-State Open Access) Regulations, 2011 for breach of GERC's Regulations by Respondent No. 1 and CERC (Deviation Settlement Mechanism), 2011 as adopted in the State of Gujarat and illegal issuance of supplementary bill dated 16.10.2021 and revised monthly bills by Respondent No. 1.

5.1. We also note that the Respondent UGVCL agreed to file the detail submission on affidavit in the present Petition, let it be filed within week' time with a copy to other parties. The Petitioner and the Respondent SLDC are at liberty to file its further submissions with copy to the Respondent No. 1 within one week.

5.2. Next date of hearing will be on 29.11.2024 at 11:30 AM

5.3. Order accordingly

Sd/-
(S. R. Pandey)
Member

Sd/-
(Mehul M. Gandhi)
Member

Place: Gandhinagar.
Date: 26.11.2024.