

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2092 of 2022.

In the Matter of:

Petition under Section 42, 43, 50, 86 and other applicable provisions of the Electricity Act, 2003 read with GERC (Electricity Supply Code and Related Matters) Regulations, 2015, GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 and other applicable Regulations of the GERC seeking for deemed extension of time for completion of 66 KV transmission line for 5000 KVA contract demand on post facto basis and consequently directing MGVCCL to consider 60 days' notice period from the deemed extended date and to refund minimum demand charges levied by MGVCCL on deemed release basis on 5000 KVA contract demand till physical release of connection.

Petitioner : Virgo Aluminum Limited
Survey No. 363-2, 363-3, 357, 358, 370
Village Sokhda, Taluka Matar,
Dist. Kheda - 387 570.

Represented By : Shri D. S. Doshi
V/s.

Respondent No. 1 : Madhya Gujarat Vij Company Limited
Sardar Patel Vidyut Bhavan, Race Course Circle,
Vadodara - 390007, Gujarat.

Represented By : Ld. Adv. Ms. Ashabari Thakur and Mr. J. R. Shah

Respondent No. 2. : Gujarat Energy Transmission Corporation
Limited Sardar Patel Vidyut Bhavan, Race Course
Circle, Vadodara- 390 007, Gujarat.

Represented by : Ld. Adv. Ms. Ashabari Thakur alongwith Mr. Y.J.
Gamit and Mr.Vasant Patel

CORAM:

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

Date: 30.06.2023.

DAILY ORDER

1. The matter was heard by the Commission on 12.06.2023.
2. Shri D. S Doshi on behalf of the Petitioner submitted that he is representing the Petitioner in the present Petition. He submitted that in the previous hearing, he had made arguments in details as far as admissibility and maintainability of the Petitions are concerned.
 - 2.1. He submitted that his basic arguments is common in all four Petitions like, in the Petition No. 1816 of 2019 in case of Indian Oil Corporation Limited Vs. Madhya Gujarat Vij Company Limited, in the Petition No. 1826 of 2020 filed by M/s. J. K. Cement Ltd. Vs Madhya Gujarat Vij Company Limited and in the Petition No. 1858 of 2020 M/s. Concord Biotech Ltd vs Madhya Gujarat Vij Company Limited including the present Petition. The Argument made herein may please be considered as arguments of all the aforesaid Petition so far as the issue of admissibility and jurisdiction is concerned. Only some factual aspects are different with regard to delay in construction, erection and commencement of the transmission line and bays, associated elements due to different reasons, the same needs to deal separately.
 - 2.2. He submitted the factual detail of M/s. Concord Biotech Ltd. related with application made by the Petitioner before the Respondent No. 1 MGVL and option III opted for the execution of works mentioning the scope of works relates with GETCO portion.
 - 2.3. He submitted that there are various issues arose while completion of aforesaid transmission line and related work and it lead to delay in completion of work.

- 2.4. Referring to GERC (Standard of Performance of Distribution Licensee) Regulations, 2005, he submitted that time limit for release of connection is within 180 days. Thus, upon completion of 180 days from when power supply agreement was signed, Respondent No. 1, MGVCL, issued 60 days' notice to the Petitioner purportedly under Clause 4.33 of the GERC (Electricity supply code and Related matters) Regulations, 2015 to complete the work of 66 KV transmission line and bays and avail power supply within 60 days from the date of notice, failing to which the Petitioner shall be liable to pay demand charges and minimum monthly charges for 5000 KVA power supply on deemed release basis.
- 2.5. On the query of the Commission, he submitted that the present issue is related with time limit extension sought for the completion of line works as opted under option III by the Petitioner. As the line works could not be completed within 180 days and after issuance of 60 days' notice by the Respondent, started the billing to the Petitioner. Hence, the billing issue is a consequence effect of the non-granting of time limit extension to the Petitioner for the completion of the works. Therefore, the billing dispute is a subsequent prayer and not the main prayer.
- 2.6. He further submitted that for the billing related dispute if any, one has to approach before the Consumer Grievance Redressal Forum. He also submitted that there is no complaint against the Respondent MGVCL. Further, CGRF has no jurisdiction as far as granting of time limit for carrying out the works as per option III opted by the Petitioner is concerned.
- 2.7. He further submitted that the scope of works involved erection of 11KV/ 66KV networks and on view of the scope of works involved, normally, it is to be carried out by the GETCO. In all the four Petition as mentioned therein the scope of works are similar type and option III had been opted by the Petitioner for early completion of the works. He further submitted that when the GETCO on its execute the such type of works and if any delay occurred, in completion of works it is governed as per the GERC's Standard

of Performance Regulations,2005 by excluding time taken by the Local authority etc. Here in the case of the present Petition also works were delayed which can be attributed to the Local authority etc. He referred the Order dated 14.06.2012 issued by the Commission in case of K.P Energy Ltd. Vs. GETCO wherein the Commission has granted the extension in time limit for completion of work of the transmission line.

2.8. He submitted that as per the provision of GERC (Electricity Supply Code and Related Matters) Regulations, 2015, the licensee are required to approach the Commission for any extension in time limit of the work undertaken by them which consists of laying of transmission lines and bays etc. Similar treatment also to be made available if work of laying of transmission line/distribution system etc., is to be carried out by the Consumer and any delay occurred in completion of work the extension of time limit be decided by the Commission. The Commission is the appropriate authority vested with right to decide such issues, if any, arise between the consumers and the Licensee. The Petitioner who is a consumer is not restrained to approach the Commission directly under the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 when issue related to delay in laying of transmission line and associated work or distribution system occur when such work carried out by the consumer for new demand application or extension of the contracted demand applied by it to the distribution licensee.

2.9. He submitted that works to be undertaken by the Petitioner opting option III by the Petitioner in all four cases, and therefore complaint is against the GETCO as the works on part of GETCO has undertaken by the Petitioner under option III, who has having all such type of details related with scope of works , execution of line works route, quantum of materials and details of vender from whom such materials to be procured and get approved including the necessary testing of materials through GETCO. Thus, the Petitioner who is a consumer of Respondent No. 1 has carried out works on

behalf of the GETCO who is a licensee be considered as licensee and allow to approach the Commission for extension of time limit for completion of works and they are treated at par with GETCO. Therefore, the Petitioner who is carry out works of transmission licensee laying down transmission network for enhancement of its contract demand should also be eligible to get extension in completion of work due to force majeure event if any, if works is not able to complete within six months as stipulated in GERC's Supply Code Regulation.

- 2.10. On query of the Commission to the Petitioner, whether Petitioner was having back to back contract with works contractor to complete the work within 180 days, the Petitioner submitted that there is no such provision in the contract wherein failure to complete the works in stipulated time limit the contractor if defaulted, it shall be liable to pay penalty. He further submitted that such provisions are also not seen in the works contracts awarded by GETCO too. Further, it is mentioned that works to be awarded to the GETCO approved contractor under the option III.
- 2.11. Relying on Clause 4.38 of GERC (Electricity Supply Code and related matters) Regulations, 2015, he submitted that the licensee is not responsible for delay, if any, in extending supply if the same is on account of problems relating to right of way, acquisition of land, or delay in consumer's obligation over which licensee has no reasonable control. He stated that the said provision is also applicable to the Consumer/Petitioner, opted option III for execution of works on its own.
- 2.12. He referred to Clause 9.21 to 9.25 of the GERC (Electricity Supply Code and related matters) Regulations, 2015 and submitted that Clause 9.21 provides that the Commission may, in public interest and for reasons to be recorded in writing, relax any of the provisions of this Code.
3. Learned Advocate Ms. Ashabari Thakur on behalf of the Respondents objected present Petition on a ground that the Petition is filed by the Consumer of the

Distribution licensee, seeking prayer for non-levy of the Minimum demand charges by the Respondent No. 1 and challenge the bill issued by the distribution licensee MGVCL . The Petitioner has also sought relief to grant extension of time in completion of work. The same is only to seek non-levy of minimum demand charges which is also one of the prayers in the Petition. Thus, the Petitioner is clearly claiming the relief for non-levy of demand charges against the non-completion of work undertaken by itself. The said relief is not permissible. The Respondent has filed detailed reply in this regard wherein the Respondent has challenged the admissibility and maintainability of the Petition.

4. During the hearing the Petitioner and the Respondent have agreed to file their written submission on the subject matter on the admissibility and maintainability of the Petition and also merits of the case.
5. We have heard the parties. We note that Petitioner has argued about the extension of time limit for carrying out the execution works under option III opted by the Petitioner. The Respondent submitted that relief sought by the Petitioner is for extension of time in completion of works along with non-levy of demand charges against non-completion of works by the Petitioner. The Petitioner shall file written submission if any within 3 weeks' time from the date of issue of Order. The Respondent shall file reply if any to the Petitioner's written submission within 2 weeks from the date of receipt of copy of the same from the Petitioner. Hearing if necessary, in the matter will be intimated separately thereafter.
6. We order accordingly.

Sd/-
[S.R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 30.06.2023