

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 1816 of 2019**

**In the Matter of:**

**Petition under Sections 42, 43, 50, 86 & other applicable provisions of the 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 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.**

Petitioner : Indian Oil Corporation Limited  
Gujarat Refinery, P.O. Jawahar Nagar,  
Vadodara- 391320, Gujarat.

Represented By : Mr. 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. Harsha Manav 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. Harsha Manav and Mr. Vasant Patel

**AND**

**Petition No. 1826 of 2019 with IA No. 11 of 2019 in Petition No. 1826 of 2019**

**In the Matter of:**

**Petition under Sections 42, 43, 50, 86 & 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 Commission seeking additional time for completion of 66 kV transmission line for 5000 KVA contract demand and consequently directing MGVCL to suspend two months' notice dated 14.08.2019 issued to the Petitioner for levying demand charges on such contract demand on deemed release basis.**

Petitioner/Applicant : J. K. Cement Limited  
Ahmedabad – Indore Highway,  
Village: Vadadala, Taluka: Balasinor,  
District: Mahisagar, Gujarat.

Represented By : Mr. D. S. Doshi alongwith Mr. Anilkumar Singhal

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. Harsha Manav 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. Harsha Manav and Mr. Vasant Patel

**AND**

**Petition No. 1858 of 2020 with IA No. 01 of 2020 in Petition No. 1858 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/Applicant : Concord Biotech Limited  
1482-1486, Trasad Road,  
Dholka, District: Ahmedabad – 382225

Represented By : Mr. 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. Harsha Manav 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. Harsha Manav and Mr. Vasant Patel

**CORAM:**

**Mehul M. Gandhi, Member**

**S. R. Pandey, Member**

**Date:18/07/2022.**

**DAILY ORDER**

1. These matters were listed for hearing on 05.07.2022.
2. At the outset, Mr. D. S. Doshi submitted that apart from appearing on behalf of Petitioner Indian Oil Corporation Ltd. (IOCL) in Petition No. 1816 of 2019, he is also representing the Petitioners in other two Petitions that are also listed for hearing today on 05.07.2022 i.e. Petition No. 1826 of 2019 filed by M/s J. K. Cement Ltd. and Petition No. 1858 of 2020 filed by M/s Concord Biotech Ltd. the Commission may permit to advance common arguments on the preliminary issue of admissibility and jurisdiction which is common to all these matters. It is further submitted that as such the issues involved in Petition No. 1816 of 2019 are almost similar and identical except the factual aspects since these three Petitions pertain to delay in construction, erection, commissioning etc. of transmission lines, bays, associated elements etc. by the respective Petitioners on account of various reasons including

RoW issues but claim of demand charges was commenced by the Respondent distribution licensee therein on deemed release basis.

- 2.1. It is submitted that in so far as the admissibility, maintainability, jurisdiction, powers of the Commission etc. in these matters are concerned, submissions and arguments on behalf of the respective Petitioners will be similar. Therefore, rather repeating the same, the Commission may allow to argue and make submissions in Petition No. 1816 of 2019 and consider the same as adopted by the Petitioners in Petition No. 1826 of 2019 filed by M/s J. K. Cement Ltd. and Petition No. 1858 of 2020 filed by M/s Concord Biotech Ltd. as well.
- 2.2. Accordingly, in so far as Petition No. 1816 of 2019 is concerned, it is submitted that that IOCL is Government of India (GoI) PSU and had sought additional 32 MVA contract demand over & above existing contract demand of 8 MVA with the Respondent No. 1 MGVL for expansion undertaken for supply of environmentally friendly fuel. An estimate was issued by Respondent MGVL for said increase in 32 MVA supply which required laying of 24 km. of 220 kV overhead line and 5 km. of 220 kV underground line totaling to 29 km. of transmission line that was envisaged to pass through highly dense & costly area having RoW difficulties, crossing over of Ahmedabad-Mumbai bullet train corridor & other roads of R&B department, which was mentioned in the estimate issued by the Respondent GETCO itself. The Petitioner paid the estimate and executed Supply Agreement dated 20.04.2016.
- 2.3. Further, during kick off meeting with the Respondent GETCO, detailed discussions with regard to erection of the aforesaid network was discussed including peculiar nature of work involved, issues regarding Right of Way (RoW) and Minutes of Meeting (MoM) were also signed. According to the estimate by the Petitioner, the target date for completion of aforesaid network was November-2019. The MoM signed amongst the Petitioner & the Respondent GETCO was provided to the Respondent MGVL and target date of work completion was also intimated, to which Respondent MGVL did not take any objection regarding 180 days' time period at that time. In case the Respondent MGVL would have taken any objection at relevant time, corrective actions would have been taken by the Petitioner at that point of time. However, 60 days' notice was served by Respondent MGVL during May 2018 in accordance with the Clause 4.33 of the GERC (Electricity Supply Code

and Related Matters) Regulations, 2015 whereby the Petitioner was asked to complete the work and avail power supply within 60 days otherwise after that issuance of minimum bill would be started.

- 2.4. It is submitted that after receipt of the aforesaid notice, Respondent MGVCL was approached multiple times by the Petitioner with reasons for delay i.e. administrative process involved in work of Rs. 100 crore and requirement to follow Rules/Regulations being Government enterprise, RoW issues, time taken by local authority to resolve RoW issues and accordingly, requesting to provide extension in time limit for completion of work. However, the Respondent MGVCL did not grant any extension and asked the Petitioner to approach the Commission stating that MGVCL cannot grant such extension since this Commission has jurisdiction to extend the timelines of Standard of Performance for consumers. Thereafter, the Petitioner IOCL filed Petition on 25.11.2019 under Section 42, 43, 50, 86 & other applicable provisions of the Electricity Act, 2003 and GERC (Electricity Supply Code and Related Matters) Regulation, 2015, GERC (Standard of Performance of Distribution Licensee) Regulation, 2005 and other applicable Regulations of the Commission seeking grant of additional time for completion of the 220 kV transmission line required to be set-up for additional Contract Demand 32 MVA sought by the Petitioner from the Respondent No. 1 and consequential directions to the Respondent No. 1 MGVCL to withdraw bills levying demand charges on the additional Contract Demand of 32 MVA on deemed release basis.
- 2.5. It is argued that the Petitioner is an existing consumer of Respondent No. 1 bearing Consumer No. 13006 and is presently having Contract Demand of 8 MVA supplied at 66 kV voltage level since 1963. The Petitioner applied for additional Contract Demand of 32 MVA on 23.04.2016 to Respondent No. 1 which requires supply at 220 kV voltage level. Although so many issues are involved in the matter but the submissions for the present are limited on aspect of admissibility & maintainability of the matter and jurisdiction of this Commission.
- 2.6. Referring to Daily Order passed for hearing held earlier held on 22.10.2019 in Petition No. 1816 of 2019, it is argued that the Commission has recorded the submissions made by Ld. Adv. Ms. Ranjitha Ramachandran appearing for the Respondents MGVCL & GETCO that only the Commission has jurisdiction to grant

time limit extension for completion of work and no issue regarding jurisdiction or admissibility was raised. However, subsequently after eight months, in additional submissions filed by GETCO, objection is raised regarding admissibility & maintainability stating that no time limit extension ought to be granted since delay in work completion is solely attributable to the Petitioner.

- 2.7. It is further submitted that in Daily Order dated 27.01.2020 for the hearing held on 16.01.2020 in Petition No. 1826 of 2019, according to the submission of GETCO three options are available for laying of transmission lines and under Option I GETCO is required to undertake the works for transmission line and bay, whereas under Option III, the work is required to be carried out by the consumer. Although, it is the role of GETCO to set-up transmission network but normally, Option III is granted in case of consumers.
- 2.8. It is also submitted that similar issue is also being dealt with by the Commission in Petition No. 1826 of 2019 and 1858 of 2020, where the Petitioners have mentioned that estimate is issued for Option III only i.e. work completion by applicant and Option I is available to Government Entities i.e. work completion by licensee. The Commission had asked the Respondent GETCO to clarify about the basis of choosing from amongst different options for work completion but till date GETCO has not replied. However, the Respondent GETCO, vide additional submission filed has stated that the issue is between consumer and distribution licensee and the Respondent GETCO is not the appropriate party and role of Respondent GETCO is to assist the Commission in the proceedings. It is submitted that Respondent GETCO should have informed about consideration of issues attributable for delay. It is further stated that role of Respondent GETCO should be to inform the Commission about time that would have been taken by Respondent GETCO, if work was to be carried out by GETCO.
- 2.9. It is further submitted that as per the provisions of the Electricity Act, 2003 it is the duty of licensee to set up the required lines, sub-station and related infrastructure for supply of electricity to the Petitioner, which in the present case was originally 29 km. but during detail survey of line route, the route length increased and as per the estimate issued, the said transmission line work has to be undertaken as per

the specifications of the Respondent No. 2, GETCO through its approved contractors.

- 2.10. Referring to Order dated 14.06.2012 of the Commission in Petition No. 1206 of 2012 in the matter of *M/s K. P. Energy Pvt. Limited vs. GETCO*, it is submitted that the Respondent GETCO had agreed with the justification of the Petitioner about reasonable delay in work completion and on that basis, the Petitioner was granted extension of time limit for completion of work. However, in the present case, despite delay in work completion is not attributable to the Petitioner, minimum bill is raised without granting time limit extension although it was requested for time limit extension.
- 2.11. It is further submitted that Standard of Performances are specified for the distribution licensees so that consumer does not suffer in getting power supply. Moreover, relaxation is provided to distribution licensee in providing supply to consumers in case of delay due to factors beyond its reasonable control. Similar relaxation ought to be provided to consumers also for work completions if delay is not attributable to them. It is further submitted that Respondent GETCO, in additional submission, has submitted that Clause 4.37 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 provides that only licensee may approach the Commission for time limit extension for completion of work. However, the said Clause does mention the word 'only' and hence, it can be practically inferred that there is no bar on consumers to approach the Commission for time limit extension since all privileges available to licensee are automatically deemed available to the consumers.
- 2.12. With regard to the Judgment dated 27.06.2020 of the Hon'ble Supreme Court referred by the Respondent GETCO in support of the contention raised that unless there is specific clause in the Regulations/Supply Code stating that even the consumer may approach the Commission seeking extension of time limit, it is argued that the said judgment explicitly mentions that in case of specific clause barring consumer to approach the Commission, then in that case the Commission cannot exercise its inherent power and such Petition cannot be entertained. However, in this case, the prayer of the Petitioner is for time limit extension and

there is no specific rule barring consumer to approach the Commission for extension of time limit for completion of work. It is further submitted that delay was beyond control of the Petitioners and there is no fault on part of the Petitioner but on the contrary the Petitioner has to incur loss. In support of said argument it is stated that in cases where GETCO does not approve drawings expeditiously or revise estimate is issued promptly or there is stay order on execution of work by some authority, the Petitioner consumer cannot be held responsible for delay and ought to be provided relaxation and time taken for such activities need to be exempted from Standard of Performance when otherwise in same way, time taken by GETCO or local authority is exempted from Standard of Performance for distribution licensee. Moreover, natural justice is always necessary in cases where delay is not on part of the Petitioner consumer but is due to fault on part of some other authority. Drawing parallel with exemption allowed to licensee in terms of Clause 4.37 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015, it is submitted that if the consumer has suffered delay say on account of any local authority, then time period has to be exempted even in case of consumer.

- 2.13. Regarding the submissions/argument about jurisdiction of the Commission and to deal with the issue of admissibility, referring to Clause 9.21 to 9.25 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015, it is submitted that as per the said Clauses, the issue is regarding interpretation of provisions to the GERC (Electricity Supply Code and Related Matters) Regulations, 2015. Moreover, when the consumer is working on behalf of the licensee, the Commission needs to also consider the interest of consumers and exercise its powers on basis that same falls under the class of special circumstances.
- 2.14. Moreover, it is submitted that as consumer has taken up work for the Respondent GETCO, consumer should be considered as GETCO in such case and time taken by local authority for RoW issues need to be exempted from the time limit for Standards of Performance. Referring to Clause 15.2 of the GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 it is submitted that adherence to specific standards of performance may be relaxed during Force Majeure conditions.

- 2.15. It is further submitted that in the similar matter of M/s Surya Roshni Limited, the Petitioner was directed to approach Consumer Grievance Redressal Forum by the Commission and aggrieved by the said directive, the Petitioner approached the Hon'ble High Court of Gujarat and now the matter is remanded back which is pending before the Commission for decision.
- 2.16. It is submitted that these matters are not related to billing dispute but only time limit extension qua the stipulation in Clause 4.33 of the GERC Supply Code regarding completing the work within the timeframe specified in GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 is sought and there is no prayer challenging the bills issued on deemed release basis by the Respondent licensee. In response to query regarding any specific provision under which extension of time to a consumer opting to set-up required network/infrastructure for supply of power on its own can be granted by the Commission, it is submitted that the Petitioner is only drawing parallel with relevant provision under which this Commission may be approached by GETCO/MGVCL seeking extension of time specified in GERC (Standard of Performance of Distribution Licensee) Regulations, 2005. Regarding the query by the Commission about decision by the Hon'ble High Court in case of M/s Surya Roshni and Order dated 14.06.2012 of the Commission in Petition No. 1206 of 2012 in the matter of *M/s K. P. Energy Pvt. Limited vs. GETCO*, it is submitted that similarity between these Petitions would be submitted on affidavit for which time may be granted by the Commission.
3. Ld. Adv. Ms. Harsha Manav, appearing on behalf of the Respondents, argued the matter on aspect of admissibility and jurisdiction of the Commission submitting that during previous hearing, Adv. Mr. Anand Ganesan has already made submissions in this regard, which may be considered by the Commission. It is submitted that as per sub-section (5) of Section 42 of the Electricity Act, 2005, Consumer Grievances Redressal Forum (CGRF) is required to be established by every distribution licensee for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the Commission. Moreover, in terms of sub-section (6) of Section 42 of the Electricity Act, 2005, Electricity Ombudsman is also appointed by this Commission. Thus, mechanism has already been established for consumers to approach CGRF and Ombudsman as per

provisions of the Electricity Act, 2003, which are the appropriate forums for the Petitioners in these matters to approach since the issue is related to bills issued by the Respondent licensee on deemed release basis after notice period of 60 days in accordance with the Regulations notified by this Commission. The Petitioners, therefore, needs to take up their grievances with CGRF as these Petitions are related to billing issues. These Petitions are not regarding any disputes between Generating Company and Licensee or inter-se between the licensees. It is further submitted that the Petitioners are consumers of the Respondent MGVCL and there are several judgments of Hon'ble Supreme Court deciding that for specified disputes between the consumer and distribution licensee, the consumer has to approach to the Grievance Redressal Forum only.

- 3.1. With regard to argument advanced by the Petitioner that consumers are being compulsorily given Option III, it is submitted that in case of the Petitioner IOCL, initially Option I was only provided to the Petitioner by the Respondents which was refused by the Petitioner IOCL and subsequently, the Petitioner IOCL has willingly opted and chosen Option III to carry out the entire work by itself. It is further submitted that GETCO, through multiple letters, while pointing out relevant provisions reminded the Petitioner to finish the work in the specified time otherwise minimum billing on deemed release basis will be commenced by the Respondent MGVCL. Moreover, non-grant of Option I has never been earlier disputed by the Petitioner and Option III was voluntarily chosen.
- 3.2. It is submitted that scope of the work was clearly mentioned in the estimate issued and therefore, the Petitioner was fully aware regarding the work involved as well as authorities from whom permissions will be required. Refuting the submission of the Petitioner that the route of transmission line is passing through highly dense & populated area is misleading because the 220 kV line was from Asoj substation to IOCL plant involving rural area only. Hence, the submission that line was passing through Vadodara city is not correct.
- 3.3. It is submitted that now when the Petitioner is unable to complete the task in the given timeframe, the Petitioner IOCL after one year from the issuance of two

months' notice and bills by the Respondent MGVCCL has filed the Petition for relaxation and seeking extension of time for completing the work.

- 3.4. It is also submitted that the prayers of all the three Petitions are identical with regard to aspect that extension of time for completion of work related to transmission network/infrastructure is sought by the Petitioners, but facts of each case are different & distinct. Also, difference in case of Petition No. 1816 of 2019 is that the Petitioner was initially granted Option I but later on the Petitioner itself chose Option III while in Petition Nos. 1826 of 2019 and 1858 of 2020, the Petitioners chose Option III from the beginning itself. However, for the present the Respondents have limited their submissions & arguments on the aspect of admissibility, maintainability, jurisdiction, powers of the Commission etc. in these matters and therefore, the Commission may consider the same for all three matters being Petition No. 1816 of 2019 filed by IOCL, Petition No. 1826 of 2019 filed by M/s J. K. Cement Ltd. and Petition No. 1858 of 2020 filed by M/s Concord Biotech Ltd. since the arguments are identical for all the three Petitions.
4. Responding to the above contentions raised by the Respondents, referring to prayer clauses in the Petition, it is submitted that main prayer is to grant time limit extension to carry out the work and issue of billing is subsequent prayer and thus the main issue of the Petitions is not related to billing dispute. In regard to argument of choosing Option III, it is submitted that Option III was chosen so as to finish the work early, as the Petitioner IOCL was informed by the Respondent GETCO that if work would be carried out by GETCO, it would cause delay. On a query of the Commission that whether any supporting documents on the above submission with the Petition is submitted, it is submitted that the Petitioner will provide the same after verification of it. With regard to argument of delay in approaching the Commission, it is submitted that the Petitioner IOCL being Government Entity has to follow Rules and Regulations in regard to seeking legal help resulting in delay.
5. We have heard the submissions & arguments advanced by the Petitioners and the Respondents on limited aspect of admissibility, maintainability and jurisdiction of this Commission in respect of Petition No. 1816 of 2019. It is further submitted by

Mr. Doshi appearing for the Petitioners and Ld. Adv. Ms. Harsha Manav that same are also adopted for Petition Nos. 1826 of 2019 and 1858 of 2020 and accordingly requested that the Commission may first decide the issue of admissibility, maintainability and jurisdiction for all the three Petitions. Thereafter, depending upon the decision of the Commission, the matter may be taken up for merits.

5.1. Considering the above the matters are now reserved for Order on the aspect of admissibility, maintainability and jurisdiction. The Petitioners and Respondents are at liberty to file written submissions, if any, on the issue of admissibility, maintainability and jurisdiction of the Commission to deal with the Petitions, within 10 days from the date of this Order.

6. We order accordingly.

**Sd/-**  
**[S. R. Pandey]**  
**Member**

**Sd/-**  
**[Mehul M. Gandhi]**  
**Member**

Place: Gandhinagar.  
Date: 18/07/2022.

