

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1826 of 2019

And

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 MGVL 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. Mr. Anand Ganesan 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. Mr. Anand Ganesan and Mr. Vasant Patel

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 23/12/2021.

DAILY ORDER

1. The matter was heard on 27.10.2021.
2. It has been submitted by Mr. D. S. Doshi that the Commission may permit to advance detailed arguments in the Petition No. 1816 of 2019 filed by the Petitioner Indian Oil Corporation Ltd. (IOCL), since the issues involved in this matter and other two Petitions which are also listed for hearing today on 27.10.2021 i.e. Petition No. 1816 of 2019 and Petition No. 1858 of 2020 filed by M/s Concord Biotech Ltd. are almost similar and identical except the factual aspects wherein; the Petitioners in all these matters are being represented by him only. It is submitted that these three Petitions pertain to delay in construction, erection, commissioning etc. of transmission lines, bays, associated elements etc. by the respective Petitioner on account of various reasons including RoW issues, but the Respondent distribution licensee therein commenced raising bills for claiming demand charges considering deemed release despite above delay for supply of power. It is argued that the facts and merits in this Petition are only different and distinct from other two Petitions but in so far as the submissions and arguments on behalf of the respective Petitioner on different aspects including on admissibility, maintainability, jurisdiction, powers of the Commission etc. is concerned will be more or less similar and the response of the Petitioners to various contentions and submissions of the Respondents in this regard will be identical to submissions and arguments advanced in this matter. Therefore, rather than repeating the same, the Commission may allow to argue Petition No. 1816 of 2019 in detail and consider the arguments advanced therein as adopted by the Petitioner in present Petition and Petition No. 1858 of 2020 filed by M/s Concord Biotech Ltd. as well.
- 2.1. Accordingly, Mr. D. S. Doshi advanced submissions and arguments partially on facts / merits in Petition No. 1816 of 2019 and on the issue of admissibility, jurisdiction and powers of this Commission while referring to various provisions

of statute and regulations / rules framed thereunder and requested to consider them for this Petition also.

3. Ld. Adv. Mr. Anand Ganesan on behalf of the Respondents also made submissions restricting on preliminary issue of admissibility and maintainability of this matter before this Commission. It is further submitted that let the issue of admissibility be decided first and thereafter, the matter will be argued on merits only after preliminary issue of admissibility is decided by the Commission. It is also requested that submissions/arguments made in this regard in Petition No. 1816 of 2019 be considered in this Petition also.
4. We note that this matter was earlier heard by the previous bench of this Commission but due to change in coram the matter was relisted for hearing on 27.10.2021 afresh.
 - 4.1. Heard the Petitioner and the Respondents. The Petitioner is seeking extension of time limit for completing the work of 66 kV transmission lines and bays undertaken by him under Option III. The said transmission network is required for the new connection with Contract Demand of 5000 KVA sought by the Petitioner from the Respondent No. 1. According to the Petitioner, there is delay in completion of the said transmission network on account of unprecedented heavy and torrential rains from end of July-2019 and resultant water logging along the transmission line route contending that the same was beyond its control.
 - 4.2. The Petitioner has further submitted that in case if the said work would have been undertaken by the Respondent and if identical issues would have occurred resulting in delay in completion of the work of transmission lines and bays beyond the timeline of 180 days specified in the GERC (Standard of Performance of Distribution Licensee) Regulations, 2005, then the licensee can approach this Commission for relaxation and granting extension of time limit. It is also argued 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. Apart from the responsibility of the Respondents to set up required infrastructure for supply of electricity, the Petitioner has

undertaken the work of laying transmission lines and bays on behalf of the Respondents. Therefore, the Petitioner, as a consumer also needs to be given identical treatment akin to the licensee of granting extension of time limit on similar grounds by this Commission. Per contra, the Respondents have submitted that the relevant provisions relied by the Petitioner are in respect of licensee and the same is not applicable to the Petitioner as a consumer.

- 4.3. We note that the Petitioner also relied upon Regulations 9.21 to 9.25 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 contending that this Commission has inherent powers to exercise its regulatory jurisdiction to grant time limit extension and consequent reliefs thereto sought by the Petitioner. However, Ld. counsel for the Respondents has objected to same.
- 4.4. We also note that Ld. counsel for the Respondent No. 1 submitted that as such there is no provision under the Regulations of the Commission to grant the extension of time limit sought by the Petitioner who is a consumer. Therefore, the Petitioner needs to make submissions on relevant legal provisions of statute or rules or regulations applicable to a consumer for seeking the relief sought. Ld. counsel for the Respondent No. 2 submitted that the present matter is similar to Petition No. 1816 of 2019 filed by M/s Indian Oil Corporation Limited and the Respondents are objecting to the admissibility on the issue of jurisdiction on the ground that the issue involved is a billing dispute between consumer and licensee whereas the Petitioner is seeking directions of the Commission to suspend the 60 days' notice issued by Respondent No. 1 and consequential relief of directions from the Commission on Respondent No. 1 not to take further action on the said notice. It is further contended that the Commission needs to decide the issue of jurisdiction first and the decision of the Commission in aforesaid Petition No. 1816 of 2019 will squarely apply in the present case since the legal provisions relied by the parties are identical in the present Petition also.
- 4.5. We also note that in reply to the submissions made by the Respondents regarding the issue involved in the present Petition being a billing dispute between consumer and its licensee, Shri D. S. Doshi refuting the said contention submitted that there is no billing dispute involved in the present Petition and the Petitioner has approached this Commission seeking extension of time for completion of the

transmission lines and bays holding that the delay in completion of the said work is beyond reasonable control of the Petitioner and consequentially seeking directions by the Commission to Respondent No. 1 to suspend the 60 days' notice up to the period of extension that may be granted by the Commission. It is further submitted that there is no billing dispute between the Petitioner as consumer and distribution licensee MGVL in the present matter. We further note that the Petitioner also submitted that Respondent No. 1 has already started issuing monthly bill for 5000 KVA Contract Demand on deemed release basis which is being paid by the Petitioner under protest.

- 4.6. We note that Respondent No. 1 has issued 60 days' notice to the Petitioner as per the provisions of Clause 4.33 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015. The third proviso to sub-clause (2) of Clause 4.33 provides that the licensee can issue notice to the applicant who opted to get the work done on his own to complete the work and avail power supply within 60 days from such notice in case of failure to complete the same within the timeframe specified in GERC (Standard of Performance of Distribution Licensee) Regulations, 2005, as amended from time to time and shall be liable to pay demand charges and minimum monthly charges as applicable.
- 4.7. We also note that Chapter IX of the GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 provides for 'Release of New Electric Connection'. As per above referred third proviso to sub-clause (2) of Clause 4.33, the work is required to be completed within the timeframe specified in GERC (Standard of Performance of Distribution Licensee) Regulations, 2005. The release of bulk power connections under Clause 9.3 provides that for loads above 2500 kVA the release of connection is within 180 days after completion of Demand Notice/formalities by prospective consumers.
- 4.8. We note that Mr. D. S. Doshi appearing on behalf of the Petitioner has made submissions and advanced arguments on facts partially, merits and on the issue of admissibility, jurisdiction and powers of this Commission.
- 4.9. Per contra, Ld. counsel for the Respondents has made submissions and arguments limited to the issue of admissibility and jurisdiction of this Commission and while

opposing the admissibility of present Petition has submitted that the Commission needs to first decide the issue of admissibility and jurisdiction since the issue involved in the present Petition is a billing dispute between consumer and licensee. It is submitted that only after the issue of admissibility is decided and in case the Commission decides that it has jurisdiction in present case and admits the Petition, the Respondents will make submission and argue the matter on merits. Therefore, the Commission needs to decide admissibility, since the legal provisions relied by the parties in other matters are identical in the present Petition also.

- 4.10. We are of the view that since the Petitioner has made submissions & advanced arguments on admissibility and jurisdiction of this Commission and partially on merits of this matter, whereas; the Respondents have limited their arguments on issue of admissibility and jurisdiction without going into facts and merits of the matter while specifically submitting that the Commission needs to decide the issue of admissibility / jurisdiction although. The matter is adjourned for further submissions in the matter, if any.
- 4.11. We note that the Petitioner has filed IA No. 11 of 2019 seeking interim relief to direct MGVCL not to take any action on the Two Months' notice against the Applicant/Petitioner during the pendency of this Petition. However, no submissions are made for any interim relief. Accordingly, the matter is adjourned.
5. The next date of hearing will be intimated separately.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 23/12/2021.