

BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR

Petition No.1858/2020

And

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 MGVL 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
1482-1486, Trasad Road,
Dholka, District: Ahmedabad – 382225.

Represented By : Shri D.S. Doshi along with Shri Vikram Kathuria and
Shri Ravi Kapoor

V/s.

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

Represented By : Nobody was present.

Respondent No. 2 : Gujarat Energy Transmission Corporation Limited
Sardar Patel Vidyut Bhavan,
Race Course Circle, Vadodara, Gujarat - 390007.

Represented By : Ms. Venu Birappa

CORAM:

Shri Anand Kumar, Chairman

Shri P. J. Thakkar, Member

Date: 24/06/2020.

DAILY ORDER

- 1) The matter was kept for hearing on 16.06.2020 through Video Conferencing and the Petitioner and the Respondents were intimated regarding the said hearing through email dated 09.06.2020.
- 2) Shri D. S. Doshi on behalf of the Petitioner submitted that the Petitioner company is incorporated under the provisions of the Companies Act, 1956 and engaged in with business of manufacturing of different types of active pharmaceuticals ingredients and related products. He submitted that the Petitioner has established new manufacturing facility Unit – III plant at Limbasi - Sojitra Road, Village - Ranasar, Taluka - Matar, District - Kheda, Gujarat and applied for power demand of 5000 KVA to the Respondent No. 1, MGVL on 11.01.2019.
 - 2.1. He further submitted that since the Petitioner was given the Option III, the Petitioner was required to carry out the laying of 66 KV underground line works at their cost under Option – III for availing the 5000 KVA power supply. The Petitioner considered to construct 66 KV line with underground cable network using 630 Sq. mm XLPE power cable with Aluminum corrugated sheath. He further submitted that before issuance of estimate by the Respondents, GETCO/MGVL, various communications were exchanged and meetings were held with the Respondents in regard to submission of Tikka Plan, site survey, survey, drawing approval for point of supply etc. including a kick-off meeting with GETCO officials held on 18.05.2019, wherein the Petitioner was given to understand that the power supply can be given from 66 kV Limbasi sub-station of GETCO involving work for erection of around 3 KM. of 66 kV line. In the said meeting the Petitioner requested GETCO to allow the 630 Sq. mm XLPE power cable with Aluminum corrugated sheath underground power cable instead of Poly sheathed XLPE cable considering the same as proper and best viable alternative and also communicated the same to GETCO vide its letter dated 21.05.2019. The aforesaid request of the Petitioner for allowing 630 Sq. mm XLPE cable with Aluminum corrugated sheath was as per the approved/accepted norms and framework of GETCO. This is also proven from the fact that at a later stage the Petitioner was allowed to decide cable configuration without any objection.

- 2.2. He submitted that the Petitioner received estimate from MGVCL vide letter dated 20.06.2019 along with GETCO estimate dated 04.06.2019 wherein, GETCO considered 3 KM, 66 KV underground cable network with poly sheathed XLPE cable. The underground power cable specifications considered in the estimate was not in accordance with the requirements of the Petitioner conveyed through letter dated 21.05.2019. He further submitted that MGVCL vide estimate dated 20.06.2019 informed the Petitioner that if the payment of estimate is not received within one month from the date of issue of estimate, the said estimate will be treated as cancelled and the application of the Petitioner will lapse and deposit amount paid will be forfeited. Therefore, taking cognizance of this condition and to avoid repetition of entire time-consuming procedure afresh, the Petitioner paid the estimate on 13.07.2019 pending the issue of allowing underground power cable specifications as per the requirements of the Petitioner.
- 2.3. He submitted that on payment of estimate on 13.07.2019, the Petitioner was called upon to execute Power Supply Agreement with MGVCL with a specific stipulation that in case the Petitioner fails to execute the Agreement within seven days, it will be presumed that the Petitioner is not interested to avail power supply and the Respondent No. 1 shall proceed for cancellation of the application without further correspondence in the matter. Therefore, the Petitioner signed the Power Supply Agreement with MGCVL on 05.08.2019. Thereafter, GETCO vide letter dated 08.08.2019 informed the Petitioner regarding fixation of erection agency for transmission line and bays from approved list of GETCO and to make material procurement from approved list of GETCO. Accordingly, the Petitioner selected M/s HEC Infra Projects Limited as its agency for erection of 66 KV line work and the same was informed to GETCO vide letter dated 20.08.2019.
- 2.4. He submitted that during the next kick-off meeting on 03.09.2019 with GETCO, the Petitioner raised the issue with regard to the estimate dated 20.06.2019 and that GETCO had not considered the request of the Petitioner made vide its letter dated 21.05.2019 for allowing underground cable with alternate specification i.e. 630 Sq. mm XLPE power cable with Aluminum corrugated sheath to which GETCO informed the Petitioner to make a fresh formal request for the same to GETCO and

accordingly, the Petitioner vide its letter dated 04.09.2019 made a fresh request to the Respondent No. 2 to revise the estimate with 630 Sq. mm XLPE power cable with Aluminum corrugated sheath cable giving reference of the request already made earlier by the Petitioner.

- 2.5. He submitted that MGVCL vide letter dated 14.11.2019 issued additional/ revised estimate to the Petitioner along with estimate letter dated 25.10.2019 of GETCO, incorporating the revised cable configuration i.e. XLPE cable with Corrugated Aluminum Sheath in place of Poly sheathed XLPE power cable. As per the revised / additional estimate and revised scope of work, the amount of Rs. 1,85,117/- was payable to MGVCL/ GETCO, which was duly paid by the Petitioner on 27.11.2019. Further, in the said revised estimate it was categorically mentioned that the timeframe for work completion is 180 days which will be counted from date of Agreement with MGVCL i.e. 180 days from 05.08.2019 and in case, the Petitioner fails to complete the work within specified time period, MGVCL shall take further action to commence billing of demand charge as per provisions of Regulation 4.3 of GERC Supply Code.
- 2.6. He submitted that since the decision of GETCO for allowing power cable with required alternate specification was pending, it was not possible for the Petitioner to proceed further in terms of taking actions for the procurement of cable and materials and undertake physical execution of work during pendency of such decision from GETCO end. Further, the Petitioner was under bonafide belief that the time required for taking decision and revising the estimate by MGVCL/GETCO would be adjusted in the time limit of 180 days specified in the estimate/agreement for completion of line work.
- 2.7. He submitted that MGVCL ignored to consider the time period of more than 3 months taken for procedural requirement at GETCO/MGVCL end for revising the estimate. Further, MGVCL/GETCO also did not consider the fact that only 83 days were left with the Petitioner to commence and complete the work after communicating the revised scope of work on 14.11.2019 and payment of the revised estimate on 27.11.2019 as against 180 days' time limit provided in the original estimate and Agreement.

- 2.8. He submitted that the Petitioner vide letter dated 12.12.2019 approached GETCO with a copy to MGVL to grant time limit up to May, 2020 on the ground that the revised scope of work was communicated to the Petitioner only on 14.11.2019 and the revised estimate was paid on 27.11.2019. Accordingly, no actions could be taken by the Petitioner before 27.11.2019 for execution of line & bay works. Further, the reason for revision in estimate was not on account of the Petitioner as the Petitioner had well in advance, before issuance of original estimate, shown the requirement of specific cable configuration to GETCO which was also within the framework of accepted norms of GETCO. Despite that the estimate dated 20.06.2019 was issued without taking into account the request of specific cable configuration made by the Petitioner.
- 2.9. He submitted that in response to the Petitioner's letter dated 12.12.2019, MGVL vide letter dated 31.12.2019 has rejected the request for allowing time limit extension for completion of work under Option-III stating that as per the provision of Regulation 4.33 (2) of Supply Code, 2015 and Regulation 9.3 (3) of Standard of Performance Regulations 2005, the request for time limit extension cannot be entertained. Moreover, GETCO in its letter dated 02.01.2020 has simply referred the decision of MGVL conveyed vide letter dated 31.12.2019.
- 2.10. He further submitted that on 04.02.2020, the Petitioner is served the 60 days' notice in terms of Regulation 4.33 of the GERC Supply Code, 2015 but the present Petition has been preferred by the Petitioner prior to that.
- 3) Ms. Venu Birappa, on behalf of the Respondent No. 2 GETCO submitted that the issues / dispute involved in present Petition filed by the Petitioner are similar to issues / dispute in Petitions No. 1816/2019 and 1826/2019 i.e. J.K. Cement Limited and Indian Oil Corporation Limited matters pending before the Commission and which are listed for hearing on 19.06.2020 wherein in, the Petitioners/Applicants therein have also sought extension of time limit beyond 180 days. She further submitted that the present matter is similar and identical with Case No. 72 of 2019 before Electricity Ombudsman between M/s RSPL Limited V/s. PGVL, wherein the Appellant RSPL had undertaken the work for laying the transmission line but the

same got delayed raising the same grievances before Electricity Ombudsman and the Electricity Ombudsman after detailed deliberation and analysis of all the issues involved has decided the matter vide its Order dated 27.11.2019. Thus, the matter of RSPL already decided by Electricity Ombudsman is very similar to what the Petitioner is seeking in the present Petition and sought by Petitioner's in other matters filed before the Commission. She submitted that therefore, in the present matter and all other Petitions in matter of JK Cement, IOCL etc., the Commission has to decide as to whether the jurisdiction lies with the Electricity Ombudsman or it is with the Commission. She submitted that as both CGRF and Electricity Ombudsman have already dealt with and decided the case of M/s RSPL Limited V/s. PGVCL, it is necessary to decide first as to whether all these matters are within the powers and jurisdiction of the Commission or the Petitioners are required to approach the CGRF for deciding the disputes involved between the parties.

- 3.1. She further submitted that the matter of M/s RSPL V/s. GETCO having already been decided by the Electricity Ombudsman on 27.11.2019, PGVCL has commenced the billing accordingly. She further submitted that in case of M/s RSPL, the estimate was issued by PGVCL to RSPL under Option – II on 01.03.2017, which was paid on 30.03.2017. As per provisions of the GERC Regulations, the Applicant M/s RSPL had to complete the work within 180 days from the date of payment of estimate, but the work was not completed in time by M/s RSPL as envisaged in estimate even after lapse of 392 days from the date of payment of estimate. Therefore, PGVCL had issued notice to M/s RSPL to complete the work within 60 days from the date of issue of notice as per Regulation 4.33(2) of GERC (Supply Code and Related Matters) Regulations, 2015. She further submitted that as per Regulation 4.33 GERC (Supply Code and Related Matters) Regulations, 2015, a notice was issued to complete the work so as to avail power supply within 60 days from the date of notice. On completion of 60 days' notice period, the Applicant is required to pay the demand charges and minimum monthly charges without any further notice and accordingly PGVCL has issued the bills to M/s RSPL on deemed release basis as per provisions of the GERC Regulations.
- 3.2. She submitted that CGRF, Rajkot and Electricity Ombudsman have decided the matter in favour of PGVCL which is as per the provisions of the GERC Supply Code

and GERC Standards of Performance Regulation, 2005 as there is no provision for time limit extension in respect of consumer provided either in the GERC Supply Code or the Standards of Performance Regulations. Therefore, according to Respondent, the disputes involved in the present Petition is between a consumer and its distribution licensee and as per the provisions of the Electricity Act, 2003, it falls under the jurisdiction of CGRF and Electricity Ombudsman to decide such cases. She further submitted that the Petitioner should have approached the Commission rather than being under bonafide belief that time extension would be granted as well as much before the 60 days' notice was received by the Petitioner from the Respondent for not completing the work as envisaged in the estimate in accordance to the provisions of GERC Regulations. The Petitioner has approached the Commission after the receipt of notice / bill from distribution licensee MGVCL and the plea advanced by the Petitioner is in guise to avoid minimum billing on deemed release basis. Hence, it is billing dispute between the consumer/Petitioner and licensee/Respondent and therefore, it squarely falls under the jurisdiction of CGRF and Electricity Ombudsman.

- 4) Shri D.S. Doshi, on behalf of the Petitioner, submitted that he is unable to give the comments on the case of M/s RSPL as of now as referred by the Respondent since he needs to examine the same and submitted that in GERC Supply Code it is mentioned that the time limit extension may be given by the Commission to licensee for delay in erection of lines. He referred Regulation 4.37 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 which is reproduced as under:

“

4.37 The overall timeline for releasing new electricity connection, from the date of receipt of application, shall be as per GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 and amendments thereof:

Provided that the licensee may approach the Commission for extension of time specified in GERC (Standard of Performance of Distribution Licensee) Regulations, 2005, as amended from time to time, in specific cases where extension of Distribution mains requires more time, along with details. In such cases, the licensee shall inform the consumer about the likely time of completion of works.

.....”

As per the above provisions of GERC (Electricity Supply Code and Related Matters) Regulations, 2015, in cases where more time is required, the distribution licensee may approach this Commission for seeking extension of time for completion of line / sub-station. Similarly, in case where the consumer is required to erect the transmission line, the consumer ought to be entitled to approach the Commission for seeking time limit extension in case of delay.

- 4.1. He submitted that there is no billing dispute between consumer and licensee involved in the present Petition. He submitted that there is no dispute regarding the bills issued by Respondent but the Petitioner has approached this Commission seeking extension of time for completion of the transmission lines and bays and consequentially seeking directions by the Commission to the Respondent to suspend the 60 days' notice during the pendency of the Petition as well as further directions to the Respondent not to take any action on the said notice. He submitted that not only this Commission has jurisdiction to decide the matter but also has powers to grant the relief sought by the Petitioner. He submitted that Sections 2 (41), 42 (1), Section 43, 50, 57 of the Electricity Act, 2003 read with Regulation 4.3, 4.32, 4.33, 4.38, 4.42. 9.23, 9.24 and 9.25 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 and Regulation 15.2 of the GERC (Standard of Performance of Distribution Licensee) Regulations, 2005 are relied upon by the Petitioner in support of its submissions seeking extension of time period for completion of the transmission lines and bays for the reasons not attributable to the Petitioner.
- 4.2. He also submitted that with respect to the Commission's jurisdiction to decide the matter, as per the provisions of the GERC Supply Code, 2015, this Commission is the appropriate authority vested with 'Power to Relax' and 'Inherent powers' in the GERC Supply Code Regulations and by virtue of these powers the Commission can decide for granting extension of time limit and the prayers made in the Petition. He further submitted that as per Regulations 9.21 to 9. 25 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015 the Commission can deal with the present matter and referred the same which read as under:

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Power of Relaxation and Power to Remove Difficulties:

- 9.21. *The Commission may, in public interest and for reasons to be recorded in writing, relax any of the provisions of this Code.*
- 9.22. *If any difficulty arises in giving effect to any of the provisions of this Code or there is a dispute regarding interpretation of any provision, the matter may be expeditiously referred to the Commission. The Commission shall pass necessary orders after consulting the parties concerned, provided that the Commission may refuse to entertain the reference filed beyond 3 months' delay without sufficient cause.*

Savings of Inherent Power of the Commission

- 9.23 *Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Gujarat Electricity Regulatory Commission to make such orders as may be necessary for ends of justice to meet or to prevent abuses of the process of the Commission.*
- 9.24 *Nothing in this Code shall bar the Gujarat Electricity Regulatory Commission from adopting in conformity with the provisions of the Act a procedure, which is at variance with any of the provisions of this Code, if the Commission, in view of the matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.*
- 9.25 *Nothing in this Code shall, expressly or impliedly, bar the Gujarat Electricity Regulatory Commission dealing with any matter or exercising any power under the Act for which no Codes have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.*
.....”

4.3. He submitted that in terms of the above and other provisions of law and Regulations, this Commission has inherent power to exercise its regulatory jurisdiction to grant time limit extension and consequent reliefs thereto and requested that the Commission may stay the notice issued by Respondent No. 1 MGVL.

4.4. In response to the submissions by the Respondent that the Petitioner filed the Petition after receipt of 60 days' notice, Shri D.S. Doshi submitted that the 60 days' notice was issued on 04.02.2020 to the Petitioner by the distribution licensee MGVL and deemed release bill was issued in May, 2020. However, the Petitioner

has approached the Commission on 03.02.2020 by filing the present Petition i.e. one day before the issue of 60 days' notice. He requested the Commission to grant some time to file its rejoinder-in-reply in response to the Respondents reply and specifically on the preliminary issue of admissibility, jurisdiction and powers of the Commission in the present matter.

- 5) We have heard the submissions and contentions of the Petitioner and the Respondent. The Petitioner is seeking extension of time limit for completing the work of 66 kV underground transmission cable 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.
- 5.1. The Petitioner has further contended that the Petitioner is given the Option III instead of Option – I and accordingly, the Petitioner is required to carry out the work of laying 3 KM. underground cable of 66 KV line works at their cost under Option – III for availing 5000 KVA power supply. The Petitioner considered 66 KV line with underground cable network using 630 Sq. mm XLPE power cable with Aluminum corrugated sheath. Before issuance of estimate by MGVCL/GETCO, the Petitioner requested GETCO to allow the underground power cable of 630 Sq. mm XLPE with Aluminum corrugated sheath instead of poly sheathed XLPE cable.
- 5.2. We note that that the Petitioner received estimate from MGVCL vide letter dated 20.06.2019 along with GETCO estimate dated 04.06.2019 for 66 KV underground cable network with poly sheathed XLPE Cable, which was not in accordance with the requirement of the Petitioner as already conveyed to the Respondent through its letter dated 21.05.2019. On account of timelines prescribed in the said estimate, the Petitioner instead of representing and pursuing for estimate as per his requirement preferred to pay the estimate on 13.07.2019 and also execute the Power Supply Agreement with MGVCL on 05.08.2019. Thereafter, the Petitioner promptly selected M/s HEC Infra Projects Limited as its agency for erection of 66 KV line work, who is also amongst the approved vendor list of Respondent No. 2 and the same was informed to GETCO vide letter dated 20.08.2019.

- 5.3. We also note that the Petitioner raised the issue with regard to the estimate dated 20.06.2019 stating that GETCO did not consider the request of the Petitioner made vide its letter dated 21.05.2019 for allowing underground cable with alternate specification i.e. corrugated XLPE cable to which GETCO informed the Petitioner to make a fresh formal request for the same and accordingly, the Petitioner made a formal request to Respondent No. 2 on 4.09.2019. Subsequently, Respondent No. 1, MGVCL vide letter dated 14.11.2019 issued additional / revised estimate along with GETCO's additional / revised estimate letter dated 25.10.2019 to the Petitioner, incorporating the revised cable configuration i.e. XLPE cable with Corrugated Aluminum sheath in place of Poly sheathed XLPE power cable as required and requested by the Petitioner. Further, MGVCL in the aforesaid revised estimate letter dated 25.10.2019 informed the Petitioner that the timeframe for completion of work shall be 180 days counted from date of Agreement with MGVCL i.e. 180 days from 05.08.2019. As per the revised / additional estimate and revised scope of work, the amount of Rs. 1,85,117/- was payable to MGVCL / GETCO which was paid by the Petitioner on 27.11.2019.
- 5.4. We also note that the Petitioner vide letter dated 12.12.2019 approached GETCO with a copy to MGVCL requesting to grant time limit up to May, 2020 on the ground that the revised estimate / scope of work was communicated to the Petitioner only on 14.11.2019 and the revised estimate was paid by the Petitioner on 27.11.2019 and therefore, during the pendency of same, no actions could be taken before 27.11.2019 for execution of line & bay works. Further, the reason for revision in estimate was not on account of the Petitioner as the Petitioner had well in advance, before issuance of original estimate, shown the requirement of specific cable configuration to GETCO which was also within the framework of accepted norms of GETCO. Despite that the estimate dated 20.06.2019 was issued without taking into account the request of specific cable configuration made by the Petitioner. In response to the Petitioner's letter dated 12.12.2019, MGVCL vide letter dated 31.12.2019 has rejected the request for allowing time limit extension for completion of work under Option-III stating that as per the provision of Regulation 4.33 (2) of Supply Code, 2015 and Regulation 9.3 (3) of Standard of Performance Regulations 2005, the request for time limit extension cannot be entertained.

Moreover, GETCO in its letter dated 02.01.2020 has simply referred the decision of MGVL.

- 5.5. We note that the Petitioner also relied upon Regulation 37 and 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.
- 5.6. We also note that Respondent submitted that as such there is no provision under the Regulations of the Commission which empowers the Commission to exercise jurisdiction and to grant the extension of time limit sought by the Petitioner. Therefore, the Petitioner needs to make submissions on relevant legal provisions of statute or regulations /rules where under the Commission has the powers to decide the relief sought or applicable to a consumer for approaching this Commission for seeking the relief sought. Further, the Respondent submitted that that the issues / dispute involved in present Petition filed by the Petitioner are similar to issues / dispute in Petitions No. 1816/2019 and 1826/2019 i.e. J.K. Cement Limited and Indian Oil Corporation Limited matters pending before the Commission, which are listed for hearing on 19.06.2020, wherein in, the Petitioners/Applicants therein have also sought extension of time limit beyond 180 days. It is further submitted by the Respondent that the present matter is similar and identical with Case No. 72 of 2019 between M/s RSPL Limited V/s. PGVCL, decided by Electricity Ombudsman, wherein the Appellant RSPL had undertaken the work for laying the transmission line but the same got delayed and raised similar grievance and plea before Electricity Ombudsman and the Electricity Ombudsman after detailed deliberation and analysis of all the issues involved has decided the matter vide its Order dated 27.11.2019. Respondent submitted that both CGRF and Electricity Ombudsman have already dealt with and decided the case of M/s RSPL Limited V/s. PGVCL. It was submitted that, it is necessary for the Commission to first decide as to whether all these matters are within the powers and jurisdiction of the Commission or the Petitioners are required to approach the CGRF for deciding the disputes involved between the parties.

- 5.7. The Respondent also submitted that the matter of M/s RSPL V/s. GETCO having already been decided by the Electricity Ombudsman on 27.11.2019, PGVCL has commenced the billing accordingly. It is submitted that in case of M/s RSPL, the estimate was issued by PGVCL to RSPL under Option – II on 01.03.2017 and paid the same on 30.03.2017, the Applicant M/s RSPL had to complete the work within 180 days, but the work was not completed in time by M/s RSPL as envisaged in estimate even after lapse of 392 days from the date of payment of estimate. Therefore, PGVCL had issued notice to M/s RSPL to complete the work within 60 days from the date of issue of notice as per Regulation 4.33(2) of GERC (Supply Code and Related Matters) Regulations, 2015 and on completion of 60 days' notice period, the Applicant was required to pay the demand charges and minimum monthly charges without any further notice on deemed release basis as per provisions of the GERC Regulations.
- 5.8. The Respondent submitted that CGRF, Rajkot and Electricity Ombudsman have decided the matter in the favour of PGVCL as per the provisions of the GERC Supply Code and GERC Standards of Performance Regulation, 2005. Since, there is no provision provided for time limit extension in respect of consumer in these Regulations, therefore, according to Respondents, the disputes involved in the present Petition is between a consumer and its distribution licensee and as per the provisions of the Electricity Act, 2003, it falls under the jurisdiction of CGRF and Electricity Ombudsman to decide such cases. The Respondent also submitted that the Petitioner should have approached the Commission much before the 60 days' notice received by the Petitioner but has approached the Commission after the receipt of notice / bill from distribution licensee MGVCL and the plea advanced by the Petitioner is in guise to avoid minimum billing on deemed release basis. Hence, it is billing dispute between the consumer/Petitioner and licensee/Respondent and therefore, it squarely falls under the jurisdiction of CGRF and Electricity Ombudsman.
- 5.9. We note that in the present case 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 submitted that the Commission

needs to decide the issue of jurisdiction first and the decision of the Commission will squarely apply to all similar matters since the legal provisions relied by the Petitioner are identical in the present Petition also.

- 5.10. We also note that in reply to the submissions made by Respondent regarding the issue involved in the present Petition is a billing dispute between consumer and licensee, Shri D. S. Doshi refuting the said contention submitted that there is no billing dispute involved in the present Petition. He submitted that the 60 days' notice was issued on 04.02.2020 to the Petitioner by the distribution licensee and the deemed release bill was issued in May, 2020 but the Petitioner had approached the Commission one day before that i.e. on 03.02.2020 by filing the present Petition. It is further submitted by the Petitioner that the bills raised by Respondent No. 1 MGVLCL are not being disputed by the Petitioner in the present matter but has approached this Commission seeking extension of time for completion of the transmission lines and bays.
- 5.11. 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. He requested the Commission to grant some time to file its rejoinder-in-reply and submission on the preliminary issue of admissibility and jurisdiction of the Commission in the present matter.
- 5.12. We note that Respondent No. 1 has issued 60 days' notice to the Petitioner on 04.02.2020 as per the provisions of Regulation 4.33 of the GERC (Electricity Supply Code and Related Matters) Regulations, 2015. It is therefore, necessary to refer the said Regulation which reads as under:

“

4.33 The demand note shall contain following details:

(1) Details of the works (including service line) to be undertaken for providing electricity supply; Provided that where the estimates are issued on the basis of per kW of demanded load, the estimate need not contain details of works to be undertaken.

(2) Charges for the above-mentioned works to be paid by the applicant in accordance with GERC (Licensees Power to Recover Expenditure incurred in providing supply and Other Miscellaneous Charges) Regulations 2005 and amendments thereof.

Provided that if the applicant wishes to carry out the works himself, he shall be permitted to do so under supervision by the licensee's officer. Adhering to the estimate and layout approved by the licensee, the applicant can get the work of drawing of service line from the licensee's distribution mains up to his premises extension of HT/EHT line, Distribution or HT substation and LT line through Licensed Electrical Contractor (LEC). In such case, the consumer himself shall procure the materials. The material should conform to relevant BIS specifications or its equivalent and should bear the ISI mark wherever applicable. The licensee may ask for documentary evidence to verify the quality of materials used.

Provided further that if the applicant chooses to get the extension work done on his/her own, only supervision charges on the cost of material and labour charges shall be payable to the licensee.

Provided further that if the applicant chooses to get the extension work done on his own, he shall get the work done within the timeframe specified in GERC (Standard of Performance of Distribution Licensee) Regulations, 2005, as amended from time to time, failing which the licensee shall issue notice to complete work and avail power supply within 60 days from such notice, on completion of notice period, he shall be liable to pay demand charges and minimum monthly charges as applicable.

(3) Amount of security deposit as specified in the GERC (Security Deposit) Regulations, 2005 and amendments thereof.

.....”

The third proviso to sub-clause (2) of Regulation 4.33 above 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.

- 5.13. 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 Regulation 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 Regulation 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 which reads as under:

“.....

9.3 Bulk Power connections are to be released, in time bound manner as detailed below:

Sl. No.	ITEM/ACTIVITY	TIME LIMIT (Within)
1	Loads up to 100 kVA / 100 kW	
	<i>Issue of Demand Notice</i>	<i>Within 10 days of receipt of application</i>
	<i>Release of connection</i>	<i>Within 20 days after compliance of formalities/ demand notice, if no augmentation is required otherwise 60 days.</i>
2	Loads above 100 kVA/ 100 kW and up to 4000 kVA for TPAL, loads above 100 kVA and up to 2500 kVA for TPSL and GEB	
	<i>Issue of feasibility clearance</i>	<i>Within 7 days of receipt application.</i>
	<i>Issue of Demand notice</i>	<i>Within 15 days of receipt application.</i>
	<i>Release of connection</i>	<i>Within 45 days after compliance of Demand Notice/ formalities by prospective consumers.</i>
3	Loads above 2500 kVA for GEB and TPSL and load above 4000 kVA for TPAL	
	<i>Issue of feasibility clearance</i>	<i>Within 15 days of receipt application.</i>
	<i>Issue of Demand notice</i>	<i>Within 30 days of receipt application.</i>
	<i>Release of connection</i>	<i>Within 180 days after completion of Demand notice/ formal.</i>

.....”

5.14. We also note that the Respondent have raised the issue of deciding first the admissibility and the jurisdiction of this Commission and whether the Regulations of Commission empower to grant extension sought in the present matter. The Petitioner has sought some time to file its rejoinder-in-reply to the replies/additional submissions filed by Respondents and also on the aforesaid issues. We therefore, direct the Petitioner to file its reply on the admissibility of the

Petition including submissions on the contentions raised by the Respondent during today's hearing within 15 days with a copy to the Respondents, from the date of this Order. The Respondents are at liberty to file their submissions, if any, within one week time thereafter.

- 6) We note that the Petitioner filed IA No. 1 of 2020 for early hearing and seeking directions to restrain the Respondent No. 1 MGVCL from issuance of Two Months' Notice to the Petitioner during the period for which the extension of time may be granted by the Commission in the present Petition. As far as the prayer of keeping early hearing in the matter is concerned, the matter is heard by the Commission on 16.06.2020 and accordingly the prayer of the Applicant for early hearing in the preset matter is addressed.
- 7) The next date of hearing will be intimated separately.
- 8) We order accordingly.

Sd/-
[P. J. THAKKAR]
Member

Sd/-
[ANAND KUMAR]
Chairman

Place: Gandhinagar.

Date: 24/06/2020.