

**GUJARAT ELECTRICITY REGULATORY COMMISSION  
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE  
Polytechnic Compound, Barrack No.3, Ambawadi,  
Ahmedabad-380015**

**CASE NO.66/2020**

**Appellant:** Gujarat Metro Rail Corporation Ltd,  
Block No. 1, First Floor, Karmayogi Bhavan,  
Sector-10/A, Gandhinagar-382010

**Represented by:** Shri D.B.Pandya Authorized Representative.  
Shri D.J.Patel, Authorized Representative.  
Shri K.R.Desai, Learned Advocate.

**V/s.**

**Respondent:** Manager,  
Torrent Power Limited  
Naranpura, Ahmedabad-380013.

**Represented by:** Shri Dipakchandra Panirwala, Convener, TPL, Ahmedabad.  
Shri Nikhil Shah, AGM, TPL, Ahmedabad.  
Shri Mahesh Dholakiya, GM (EHV Dept.), TPL, Ahmedabad.  
Shri Jagdish Hirpara, AGM (A/c. Dept.), TPL, Ahmedabad.  
Shri Bhavik Oza, A.M. (Legal), TPL, Ahmedabad.

**:: Proceedings ::**

- 1.0.** The Appellant had submitted representation aggrieving with the order No.2118 dated 19.10.2020 passed by the Consumer Grievance Redressal forum, TPL, Ahmedabad, in case no. 47/2020. As per the Section 42(6), Electricity Act 2003 and Regulation 3.19 of GERC (CGRF and Ombudsman) Regulations, 2019, the representation was registered at this office as Case No.66/2020. Hearing of this case was kept on 25.03.2021, 08.06.2021, 19.06.2021, 13.07.2021 and 26.08.2021.
- 2.0.** The Appellant has represented the case as under:
- 2.1. On 09.11.2020, The Appellant has represented the case as under.
- (1)** The Appellant, Gujarat Metro Rail Corporation Limited, submitted that they are EHT consumer of the Respondent, the Torrent Power Limited, Ahmedabad having the service No. 100348474 with the contracted load of 45 MVA at the present and the Appellant is engaged in the construction of Metro Rail Project in the City of Ahmedabad.
- (2)** The Appellant had applied to the Respondent on 29.12.2015 to sanction the said load of 45MVA and in response to the same, an estimate of Rs.32,99,81,980/- was issued to the Appellant by the Respondent vide letter No.4140 dated 05.03.2016.
- (3)** An estimate of Rs.32,99,81,980/-, the Appellant paid up the same on 30.03.2016. Thereafter, the load was released by the Respondent on 03.01.2019 and two separate feeders means two service line were laid for the purpose.

(4) Thereafter a final bill amounting to Rs.22,42,06,355 was issued vide letter No.3341 dated 23.09.2019 on the basis of the estimate issued on 05.03.2016 and a refund of Rs.10,57,75,625/- was made to the Appellant by the Respondent.

(5) After the receipt of the final bill, it was noticed by the Appellant that the aforesaid estimate and the final bill are not in accordance with the relevant provision of the Electricity Act, 2003, the Electricity Supply Code, 2015 and the Gujarat Electricity Regulatory Commission (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 and thereafter the Appellant made a complaint to the Consumer Grievance Redressal Forum of the Respondent on 04.08.2020 raising the disputes the aforesaid estimate and the final bill to quash the same.

(6) The Consumer Grievance Redressal Forum, TPL, after hearing both the parties has partly allowed the complaint vide its order dated 16.10.2020 and has directed to refund the service line charges for the length of 30 meters in respect of single service line out of the two service lines.

(7) Being aggrieved and dissatisfied with the aforesaid order of the Consumer Grievance Redressal Forum, TPL, challenges the validity of the same as well as the aforesaid estimate and the final bill on the basis of the following amongst other grounds and prays to the Ombudsman that the said estimate, the final bill and the order of the Consumer Grievance Redressal Forum, TPL to the extent of not allowing the appeal fully be quashed entirely and the estimate and the final bill be directed to be revised on the basis of the relevant statutory provision and the excess amount recovered from the Appellant be directed to be refunded.

1. Sub-section (1) of section 42 of the Electricity Act, 2003, provides for developing and maintaining an efficient distribution system by the Respondent and therefore it is the duty of the Respondent to develop such efficient system so that the Appellant can get the supply of electricity at the reasonable cost.
2. Section 46 of the Electricity Act, 2003 provides and authorizes the Electricity Regulatory Commission to prescribe the regulations for recovering the reasonable expenses incurred in laying the electrical works and not anymore and in view of this, it is required to be examined whether the cost recovered from the Appellant is in accordance with law or not and whether the demand of the Appellant could have been met with by up gradation of the existing infrastructure or not at the cost of the Respondent.
3. The Respondent is required to issue the estimate in accordance with the provisions of the regulation prescribed under section 45 and 46 of the Electricity Act, 2003 by the Gujarat Electricity Regulatory Commission and the cost of the service line (barring first 30 meters of length) and the proportionate cost of augmentation of electrical plant is only required to be recovered.
4. As aforesaid, sub-section (1) of section 42 of the Act, clearly and categorically casts a legal duty and responsibility upon the Respondent to develop and maintain an efficient distribution system and the term distribution system as defined in sub-section (19) of section 2 of the Electricity Act, 2003 means the system of wires and the associated facilities between the delivery point on the transmission line and the point of connection to the installation of the consumer. The said word "efficient" goes with the concept that the electric line and the associated facilities at the substation should be having the sufficient capacity for supplying the electricity to a prospective consumer at the desired voltage level.

5. In the present case, the electricity at 132KV was to be supplied to the Appellant from the nearest substation means the 66KV Amraiwadi substation existing at the relevant time and therefore in view of the aforesaid provision of sub-section (1) section 42 of the Electricity Act, 2003 read with the definition of the term “distribution system” prescribed in sub section (19) of section 2 of the Electricity Act, 2003, it was the sole responsibility and the legal duty of the Respondent to upgrade the Amraiwadi substation and to lay 132KV line long before but this was not done by the Respondent. In view of these, if the Respondent would have developed the existing infrastructure in time keeping in view of the load growth in the respective area, the question of recovering even the proportionate cost of the said entire cost from the Appellant would not have arisen.
6. The aforesaid analogy would similarly apply to the upgradation and augmentation works carried out at 66KV Vinzol substations, 220KV Nikol-2 substation and 66KV Odhav substation as well as the laying of 132KV line from Vinzol to Amraiwadi substation and Nikol-2 to Amraiwadi substation via Odhav substation.
7. The aforesaid statutory position of the Electricity Act, 2003 relating to the development and maintaining the efficient distribution system is also reflected in regulation 4.3 of the codes prescribed under section 50 of the Electricity Act, 2003, which also categorically imposes a statutory responsibility upon the Respondent to upgrade, expand, strengthen its own distribution system for meeting with the demand of electricity in its area of supply. Thus, in spite of this statutory obligation imposed upon the Respondent, it has recovered the cost from the Appellant for up gradation and augmentation of Amrawadi, Vinzol, Nilol-2 and Odhav substation and the cost of laying new 132KV interconnected lines from Vinzol and Nikol-2 substation via Odhav substation to Amrawadi substation, which is totally arbitrary, unjustified and not legal.
8. The aforesaid statutory position of the Electricity Act, 2003 relating to the development and maintaining the efficient distribution system is further reflected in regulation 3 of the GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005, which categorically states that the distribution licensee shall recover the reasonable expenses from the prospective consumer subject to the aforesaid provision of sub-section (1) of section 42 of the Electricity Act, 2003 and therefore in view of this also the recovery of the cost made by the Respondent for the up gradation and augmentation of Vinzol and Nikol-2 substations via Odhav substation and the laying of 132KV lines interconnecting them is totally arbitrary, unjustified and not legal.
9. The aforesaid regulation 3 of the GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 also provides that the reasonable expenses could be recovered for erecting any electric line or the plant and nothing more but the Respondent has recovered the cost for laying the 132KV lines as well as the cost of up gradation of Vinzol and Nikol-2 substations via Odhav substation and therefore the same is not justified and legal.
10. The aforesaid regulation 3 of the GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 also provides that the distribution licensee shall lay free of charge a service line up to length of 30 meters for both the service lines from its

nearest distribution main on the public road means the Amraiwadi substation but in the present case, the Respondent has recovered the cost of the said 30 meters also for both the service lines instead of giving the same free and therefore this action on the part of the Respondent is arbitrary unjustified and not legal and against the provision of Regulation notified by the commission.

11. Thus, as stated above, the Respondent is required to lay the service line free of cost for the first 30 meters of length. However, such benefit is not given to the Appellant and therefore the cost recovered on this count in respect of both the service lines is required to be refunded.
12. Sub regulation (ii) of regulation 5 of GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 provide that in case, when the capacity of existing substation means existing electric plant is required to be augmented for meeting with the demand of the prospective consumers, only the differential cost of the existing and new such electric plant will form the basis of calculation of pro-rata charges. It is required to be examined that the Respondent has recovered the augmentation charges as per such provision or not. The Respondent has not observed and followed the above provision.
13. "Service Line" is defined in subsection (61) of section 2 of the Electricity Act, 2003 and accordingly, a service line means any electric supply line through which the electricity is to be supplied from a distributing main and therefore in view of this, 132KV line erected from Amraiwadi substation to the Apparel Park (Point of Supply) is to be reckoned as the service line for the Appellant because the nearest distribution main is the Amraiwadi substation and hence the Respondent can recover the cost of this service line barring first 30 meters of length, which is to be given free of cost and in addition to this, the Respondent can recover the proportionate cost of upgradation and augmentation work done at Amraiwadi substation but nothing more than this cost could be recovered in view of the legal position narrated above. The Respondent has not followed above regulation and recovered excess amount from the Appellant.
14. The Appellant came to know that the Respondent has filed various petitions before the GERC and claimed the capital expenditure towards various augmentation works for EHV substations and overhead lines during the financial year 2005-06 to 2020-21. The Appellant also come to know that the Respondent had filed in various petitions before the GERC and claimed the capital expenditures of following works which are also part of the works carried out and claimed by the Respondent in the final bill for providing EHV connection No.100348474. The details of the same are stated below.

**Tariff order/Truing up for year 2015-16 (Case no. 1627 of 2016, 9<sup>th</sup> June 2017):**

"TPL has mentioned in the above petition that based on the increased line loading in 66 KV lines between vinzol and Amraiwadi, 66 KV line between Odhav and Amraiwadi and upcoming infrastructure projects upgrading of 66 KV lines is essential. TPL has also mentioned about the proposed EHV capital expenditure for MYT Control period for the year 2016 to 2021 in above petition. TPL has mentioned in the said petition that the Odhav substation being fed from NICOL-2 will be initially upgraded to 132 KV GIS and thereafter 220 KV. TPL has also submitted the proposal to upgrading of 66 KV line between Vinzol and Amraiwadi, 66 KV line between Odhav and Amraiwadi and Amraiwadi

substation in the proposed EHV capital expenditure in the above petition for meeting load growth and supply demand of Amraiwadi area as well as to cater to demand of METRO. The associated panel boards and cables/lines are also required to be upgraded. Torrent power Ltd has claimed the capital expenditure charges for the above works in the tariff petition and the commission has approved the same.”

**Tariff order/Truing up for year 2016-17 (Case no. 1696 of 2018, 31<sup>st</sup> March, 2018):**

“TPL has mentioned in the above petition that the cost was also incurred during FY 2016-2017 towards upgradation of 66 KV overhead lines between Vinzol and Amraiwadi, 66 KV line between Odhav and Amraiwadi. Torrent Power Ltd has claimed the capital expenditure charges for the above works in the tariff petition and the commission has approved the same.”

**Tariff order/Truing up for year 2017-18 (Case no. 1764 of 2018, 24<sup>th</sup> April 2019):**

“TPL has mentioned in the above petition that the cost was also incurred during FY 2017-2018 towards upgradation of 66 KV overhead lines between Vinzol and Amraiwadi, 66 KV line between Odhav and Amraiwadi. TPL has also submitted the details of revised capital expenditure in the above petition. The Torrent Power Ltd has claimed the capital expenditure charges for the above works in the tariff petition and the commission has approved the same.”

15. Therefore, when the Respondent has already recovered the cost of above stated works as capital expenditure from the consumers of its area of the Respondent as per the orders of the GERC, the same is not recoverable from the Appellant. Alternatively, it requires to refund the amount recovered from the Appellant because it is dual recovery for the same works which is against the provision of the Electricity Act, 2003 and Regulations of the Commission and also against financial principles.
16. In the above connection, it is stated that sub-regulations (xiv to xvii) of regulation 7 of the GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 clearly prohibit the Respondent to show such expenditure which is recovered from the prospective consumers, as the actual expenditure incurred by it and already recovered from the consumer otherwise. While submitting the proposal to the GERC for revision of tariff, the Respondent has violated the said provision of Regulation 7 and if it is so, such attitude shown by the Respondent could also be the ground for refunding the cost to the Appellant recovered for the upgradation of substations and laying of the transmission lines.
17. If the submission in the forgoing sub-para (16) comes to be true it establishes that the Respondent has recovered the full cost from the (1) the Appellant as well as the (2) proportionate small share of total expenditure from each of its consumers and if is so, the same can be said to be unfair and unjustified, and illegal.
18. It goes without saying that when the levy of the estimate and the final bill is not in accordance with law, the Appellant is fully entitled to get the refund of the entire amount, which has been paid by him because as already submitted above the legal responsibility and liability of creating the infrastructural facilities lies with the Respondent as per the provision of relevant law, rules and regulations.

19. Since the levy of the charges for network recovered by the licensee is not legal, the Appellant is not entitled to pay the same but he was required to pay only an amount as required to be recovered under the relevant statutory provisions.
20. The aforesaid factual position has also backed of the relevant law means the Electricity Act, 2003 because section 46 of the Electricity Act, 2003 provides and authorized the Hon'ble commission to prescribe the regulations for recovering the reasonable expenses incurred in laying the electrical works and not any more.
21. The cost for upgradation of Vinzol, Nikol-2 and Odhav substation and the cost of laying 132KV interconnecting lines between these sub-stations up to Amraiwadi substation are not recoverable at all.
22. On perusing the definitions of the terms "distributing main" and the 'service line' prescribed under the Electricity Act, 2003 as narrated above, the Respondent can recover only the cost-of-service line and the proportionate cost of upgradation and augmentation of Amraiwadi substation and nothing more than that.
23. The levy of the cost of the service line barring 30 meters of length and the proportionate cost for the upgradation and augmentation work of Amraiwadi substation can be said to be reasonable whereas the levy of the cost for the upgradation and augmentation work of Vinzol, Nikol-2 and Odhav substation as well as the cost for laying 132KV line emerging from all the said substations up to the Amraiwadi substation is quite unreasonable, unjustified and not legal at all and hence the entire cost recovered is required to be refunded to the Appellant.
24. The Hon'ble Appellate Tribunal for Electricity has observed in the order dated the 02.03.2016 in Appeal No. 108 of 2015 (M/s. Dada Ganpati Gaur Product Limited, Sirsa, Haryana State) that the licensee cannot recover the cost of upgradation and augmentation works of substation more than that is permissible under the relevant statutory provision and therefore the submissions made in the forgoing sub-paragraph also get the due support of the said order.  
*"The licensee shall not claim any payment or reimbursement from the applicant for any expenditure incurred or to be incurred by the licensee in terms of or under any scheme approved by the Commission or when such expenditure is otherwise allowed to be recovered through tariff by the Licensee as a part of the Revenue requirements of the licensee."*
25. The Respondent has stated that the estimate and the final bill is prepared on the basis of line sharing capacity but the said estimate and the final bill are not in accordance with the provision of the sub regulations (ii) of the regulation 5 of the GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005.
26. The Respondent has claimed the charges for SUP+SY Guarantee (Supervision Charges + system guarantee) of 132KV, 1600 Sq. mm cable laying in the final bill but as per the Knowledge of the Appellant, the GERC has not authorized the Respondent to recover such charges from the consumer. If the Respondent has paid the charges for guarantee, the details thereof as well the letter of quotation sent for the supplier for supplying the cable are required to be furnished to the Appellant along with the relevant provision of the law under which the said charges are recovered.

27. The Respondent has claimed the charges for liaison with Ahmedabad Municipal Corporation for Road Opening Permission in the final bill. As per our knowledge of the Appellant, the GERC has not authorized TPL to recover such charges from the consumer because it is duty and responsibility of the Respondent to obtain the road opening permission from the concerned authority. The GERC has not authorized the Respondent to recover such charges from the consumer.
28. The Appellant submitted that the case of the Appellant deserves sympathetic consideration and therefore the Appellant has approached the Ombudsman as the CGRF has not considered the law position as well as the prayer relating to
- i) giving credit of the charges of SUP + SY Guarantee (Supervision Charges + system Guarantee) for laying 1600 sq. mm cable and
  - ii) giving credit of the charges of liaisons with the Ahmedabad Municipal Corporation for road opening permission in its order, which are highlighted by the Appellant in the memo of his complaint.
29. The Respondent has claimed the charges for dismantling the conductor of overhead lines, EHT towers and other miscellaneous material between the Amraiwadi sub-station and the Odhav sub-station but the salvage value of the dismantled material of conductors and materials of the EHT towers is not given credit in the final bill and hence the same is required to be given.
30. The Respondent has claimed the charges for dismantling the conductor of overhead lines, EHT towers and other miscellaneous material between Amraiwadi sub-station and the Vinzol substation but the salvage value of the dismantled material of conductors and materials of the EHT towers is not given credit in the final bill and hence the same is required to be given.
31. The Appellant submitted that the Respondent has stated in letter No. 4140 dated 05.03.2016 that they shall be augmenting our 66KV network to 132KV as the Network is fully saturated and they are not in a position to meet power requirement of the Appellant. It is understood from the above that the network of 66KV substation of Amraiwadi, Odhav and Vinzol were pushed beyond its capacity in the operation at the time of application filed by the Appellant. The GERC has formulated "Gujarat Electricity Distribution Code" wherein it is mentioned in regulation 4.1 (3) that the development of the distribution system must be planned sufficiently in advance allowing adequate time to obtain the required statutory clearances, consents or way leaves, the detailed engineering, design and construction work to be carried out and completed. The distribution code also specifies in the said regulation 4.3 (1) that the distribution licensee shall develop load curves for the area fed by the concerned substation. It is also specified in regulation 4.4(1) of distribution code that the licensee shall formulate a short-term demand forecast considering the overall development of various sectors in its area of supply succeeding five years. It is also specified in regulation 4.5(2) of distribution code that the licensee shall assess and forecast the load demand of each category of consumers in his area of supply on annual basis or more frequently as required by the commission. The Respondent may be asked to furnish a copy of the details of load curve and forecast demand for the area of Amraiwadi, Odhav and Vinzol 66KV substations for the year of 2010 to 2015 which is submitted to the commission. It is also specified in regulation 13(4) Distribution Code that loading in any current carrying component of the distribution system (e.g., conductors, joints, transformers, switchgears, cables

and other apparatus) shall not exceed 75% of their respective thermal limit to fulfill the security standards.

32. The Appellant submitted that it is the right of the Appellant to raise the dispute regarding the estimated cost to be recovered for the supply of electricity and the same is guaranteed under the Electricity Act, 2003 (for short "the Act") and the regulations prescribed by the Gujarat Electricity Regulatory Commission there under and in view of this, the present dispute raised by the Appellant at the reasonable time cannot be said to be the afterthought.
33. The Respondent has stated that "the basic requirement of GMRCL (Appellant) for 132KV Apparel Park supply point was that it should have two sources of supply. Same is mentioned by the Appellant in its email dtd. 29. 11.2014". In turn the proposal was designed for Augmentation of EHV network for different substations. In response to above, the Appellant stated that he has never demanded two sources of supply. It is mentioned in the email dated 29.11.2014 of the GMRCL that "these RSSs shall be fed via incoming power supply from Grid substations of M/s. Torrent Power Limited at higher voltage levels through two separate and distinct feeders at each RSS location". It is very clearly mentioned in the email that GMRCL requires two separate feeders (double circuit for power supply) from Amraiwadi substation to supply point of Apparel Park and the Respondent was also agreed to lay two cable (800 sq. mm cable size) from Amraiwadi substation to supply point. This demand of the Appellant is accepted by the Respondent vide e-mail dated 01.12.2014. It is very clear from the above that the Appellant has never demanded two sources of supply but the Respondent has designed for its own network for 132KV considering the criteria of saturation of 66KV network, reliability, contingency planning, interconnection of all substation (Ring mains system) and economical loading and hence carried out augmentation work at different substations. The contention of the Respondent that the Appellant, GMRCL, asked for the supply through two different sources of supply is not correct at all and the representation made by the Respondent in this regard before the CGRF cannot be said to be misleading.
34. The Respondent has stated that the calculation of the estimated cost for the works of augmentation of the sub-stations and the lines is made on the basis of 45:180 means in the ratio of the load demanded by the Appellant and the total line capacity. The Respondent has not mentioned and details of clause of regulation under which the cost of augmentation (the ratio of demanded load and total line capacity) is calculated but as provided in sub-regulation (ii) of regulation 5 of the GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005, only the differential cost of the existing and new electrical plant will form the basis of calculation of pro rata charges.
35. The Respondent has stated that the scheme for providing 132KV supply to GMRCL was executed as per its standard procedure but so far as the estimated cost is related, the same is to be calculated as per the provision of regulation 5(ii) of the said GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005.
36. The scheme of providing the supply of the Appellant, GMRCL at 132KV included the upgradation of the existing 66KV Vinzol, Nikol-2 and Odhav sub-station to 132KV hence as already submitted, the differential cost of the existing and the

new electrical plant means only the cost for the upgradation of the said sub-station is to be taken into consideration for calculating the pro-rata charges for the said upgradation work and thus the definition of the term “electrical plant” is to be viewed in this context and not otherwise.

37. The Respondent has stated that the cost data book is to be the basis for calculating the initial estimated cost for laying the line and the plant as mentioned in regulation 6(iv) of the GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 but at the same time, such estimate should not be violative of the provisions of the regulation 5(i) and (ii) of the said GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 because all the provision thereof are to be read in entirety and jointly and not in isolation.
38. The Respondent has not given any refund/credit of scraped material in the final bill and wrongly submitted that it is reflected in the final bill amount as per company standard practice. The Appellant has right to know the actual net weight of different scraped materials, its rate, name of vendor and methodology adopted by the Respondent to calculate the cost of scraped material so that the amount of credit given in the final bill can be understand accordingly.
39. The Respondent has submitted the details of references of all purchase orders only but not submitted a copy of each purchase order to the Appellant, GMRCL, to understand the details and the calculation of final bill.
40. The Respondent had mentioned in the letter No. 4140 dated 05.03.2016 that existing 66 KV network is fully saturated and the Respondent is not in a position to meet power requirement of the Appellant, GMRCL, and augmentation of 66 KV substation is required and hence the regulation 5 (i) of the GERC (Licensee’s Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 does not empower the licensee to recover the augmentation charges. Sub-regulation (i) of Regulations-5 provides for erection of new lines or extension of existing line emerging from existing substation for giving new electric supply to the prospective consumers whereas sub regulation (ii) of said regulation-5 provides for the erection of new sub-station or augmentation thereof for giving new supply to the prospective consumer. Thus, there is basic difference in the provision of sub-regulation (i) and (ii) of said Regulations-5.
41. The Respondent had submitted the consolidated estimated cost of Rupees 99.59 Cr. For augmentation charges for MYT tariff petition for the year 2016-20 under the head of “Upgrading Vinzol to Amraiwadi, Odhav to Amraiwadi feeders and Amraiwadi substation”. The Respondent has not submitted detailed breakup of said cost incurred for each year approved by the commission. Moreover, the GERC has also approved the same charges for the year-2015-2016 but information for the same is not mentioned in the reply. The Respondent has also not submitted supporting document to check and verify the details.
42. As already submitted by the Appellant in the original complaint before CGRF at para 6 (w), that the Appellant has not raised any dispute about the recovery of the cost of the service line barring 30 meters of the length to be given free and thus the service line barring 30 meters of the length to be given free and thus the objection raised by the Respondent in this regard is not proper.

43. The Respondent has stated that as the GMRCL asked for the dedicated cable exclusively for the service and also a dual source of supply, the free length of 30 meter cannot be given but as already submitted by the Appellant in above para 7(23), regulation 3 of the GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 cast a legal responsibility and liability upon the licensee to give 30 meter of service line free of cost irrespective of the fact, whether the said service line is dedicated one or the same is meant for the duplicate feed and thus the action of not giving the 30 meter of length free of cost is totally not legal and hence the cost recovered towards this is required to be refunded.
44. The Appellant is not agreeable to the reply given by the Respondent vide letter dated 11.09.2020.
45. Regarding the submission made by the Respondent vide its aforesaid letter no. 1485 and the letter no.1493 both dated 11.09.2020, it is stated that the provision for giving 30 meters' free length of service lines made in the relevant regulations of Notification 9 of 2005 is applicable to each of the service lines irrespective of the fact that whether there are two service lines for duplicate feed or even more than that. Thus, it is mandatory for the Respondent to give the said 30 meters of length in respect of each of the two-service line laid for giving 132KV supply to GMRCL. Moreover, the order of the Ombudsman passed in case no. 135/2016 submitted with the reply by the Respondent, it is stated as could be seen from para 4.4 of the said order, in fact, the Ombudsman has turned down of the finding made in para 4.30 by the CGRF in its order regarding not giving 30 meters of service lines and hence the submission of the Appellant for giving the 30 meter free length in respect of both the service lines holds good and valid, which is based on the relevant statutory provision of the GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005. In view of this, the said order of the Ombudsman is not applicable at all in the present dispute.

**(8)** The findings of the CGRF made in its order which are as under-

- I. Regarding not raising the dispute before making the payment of the estimate, it is stated that infact the final bill is the reflection of the estimate and hence the estimate, which is the base, is not in accordance with the relevant regulations, it is but natural that the final bill is also not in accordance with the relevant regulations. Thus, both are co-related with each other and therefore the finding of the CGRF that the dispute is not raised before making the payment cannot come in way for deciding the complaint.
- II. Regarding the finding of the CGRF directing for giving free length of 30 meters for only single 132KV cable (single circuit), it is stated that, the two separate feeders (double circuit line) are provided to the Appellant and thus two service lines are laid for catering the demand of the Appellant. The entire cost of both these feeders is already paid up by the Appellant. As submitted above, regulation 3 of GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 clearly and categorically provides for giving the free length of 30 meters in respective of the fact whether there is single feeder or two feeders. Moreover, the said regulation does not provide that whenever there are two separate feeders, the said free length could be given for only one feeder. Thus when said statutory provision of regulation 3 does not provide for non-giving of free length for both

the feeders, it goes without saying that the free length is to be given for both the feeders. However, the CGRF has overlooked and ignored this material aspect of the relevant law position. Even assuming without admitting that the final bill is in order then in this contingency also, the order of the CGRF to the extent of giving free length for only one service line is required to be modified by directing for giving the free length for both the service lines.

III. Regarding the findings of the CGRF to the effect that.

- a) There was not an issue of augmentation of existing substation or erection of new substation (like 11 KV substation). The Respondent have not recovered any cost for new transformer or augmentation of transformer at any substation.
- b) As per section 5 (i) of GERC notification No. 9 of 2005; the Respondent could have recovered the cost of laying of 132KV cable emanating from either 132KV Nikol-2 substation or from 132KV Vinzol substation and associated switchgears. But the Respondent recovered only proportionate cost for laying of EHV network as per load requirement of the Appellant which is in order.

It is submitted as under:

The estimate and final bill issued by the Respondent covers the proportionate augmentation charges based on line capacity for laying the lines as well as the charges for Electric plant excluding cost of transformer but already submitted earlier charges for the lines are not leviable and the charges for electric plant including the transformer, switchgear, isolator, lightning arrestor, breaker, structure, bus bar, earthing etc. are leviable at the rate of differential cost of existing a new plant and this differential cost would be the basis for the calculation of Pro-rata charges as per the provision of 5 (ii) of regulation of notification no. 9 of 2005. These augmentation charges are leviable as per the commercial circular no.1 dtd. 30.11.2006 issued by the GETCO. The guideline prescribed under the said circular are held to be in order by the Hon'ble High court of Gujarat in the order passed no. SEA/7234/2008, 11/11 Judgement.

IV. Regarding the finding of the CGRF for not giving the credit of salvage value due to the reason that the Respondent has not recovered/removed any service line apparatus since the Appellant, GMRCL, has availed new connection, it is stated that an amount of Rs. 11,89,01,175/- is paid by the Appellant for underground existing 66KV overhead lines and therefore the said findings of CGRF is erroneous and hence the Appellant is entitled for full credit of salvage value for dismantled material of 66KV overhead line conductor and material of tower.

**(9)** The Appellant states that the impugned order is silent on the following core issues raised before CGRF.

- A. Direct the Respondent to provide the details and documents as demanded by the Appellant vide email dated 27.05.2020 and 19.06.2020 as they are required to verify the actual cost incurred for various works.
- B. Direct the Respondent to revise the estimate and the final bill on the basis of the above submissions and the relevant statutory provisions of the Electricity Act, 2003, Electricity Supply Code, 2015, Gujarat Electricity Regulatory Commission (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 and other regulations prescribed by the Gujarat Electricity Regulatory Commission.
- C. Direct the Respondent to refund the amount as admissible after revising the estimate and the final bill.

- D. Direct the Respondent licensee for giving credit of the charges of the SUP+ SY Guarantee (Supervision charges+ system guarantee) for laying 1600 sq. mm cable.
- E. Direct the Respondent for giving credit of the charges of liaisoning with the Ahmedabad Municipal corporation for road opening permission.
- F. Direct the Respondent to pay the interest thereon as admissible.

The Appellant hereby requests that the Ombudsman may be please to decide the above core issue and pass appropriate order which were not considered by CGRF.

**(10)** The Respondent is duty bound to recover the cost from the prospective consumer as per the criteria fixed in the GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 only and nothing more than that.

**(11)** The levy of the estimated cost and final bill for giving 132KV supply and cost of the service line recovered from the Appellant is not in accordance with the provisions of the GERC (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 and hence a direction is required to be given to the Respondent to recover the cost as per the said regulation only and refund the balance amount.

**(12)** Certain details and documents in respect of calculation of the amount of the final bill were called from the Respondent by email dtd. 27.05.2020 and thereafter the reminder is also sent by email dtd. 19.06.2020. However, no reply in this regard is received from the Respondent so far.

**(13)** The Respondent has not furnished the information relating to the final bill and therefore to know the exact amount it is necessary that the said information is required to be supplied by the Respondent and hence a direction in this regard may kindly be issued.

**(14)** Since the Respondent has acted beyond the provisions of the relevant law, rules and regulations and has not honoured the same, the Appellant has no any other alternative except to approach the Ombudsman for seeking justice in the matter and for granting the prayers made in this complaint.

**(15)** Since the Respondent has not acted in accordance with law, suitable directions are required to be issued by the Ombudsman in the matter.

**(16)** The Appellant has not filed any other complaint, petition or application either before the Ombudsman or any other court of law in the subject matter of this complaint.

**(17)** The Appellant submitted that the conditions stipulated in clause (f) of regulation 3.17 (8) of the Gujarat Electricity Regulatory Commission (Consumer Grievances Redressal Honourable Forum and the Ombudsman) Regulations, 2011 have been fulfilled.

**(18)** The Appellant craves leave of Ombudsman to make further oral and written submission in the matter at the time of hearing and as and when required.

**(19)** The Appellant prayed that Ombudsman to-

- a) Allow the complaint,
- b) Quash the order dtd. 16.10.2020 of the Consumer Grievances Redressal Forum to the extent of not allowing the complaint fully,
- c) Declare the recovery of amounts from the Appellant by the Respondent for various works as illegal, arbitrary and unjust.

- d) Direct the Respondent to provide the details and documents as demanded by the Appellant vide email dtd. 27.05.2020 and 19.06.2020 as they are required to verify the actual cost incurred for various works.
- e) Direct the Respondent to revise the estimate and the final bill on the basis of the above submission and the relevant statutory provision of the Electricity Act, 2003 Electricity Supply Code, 2015, Gujarat Electricity Regulatory Commission (Licensee's Power to recover the expenditure incurred in providing supply and other miscellaneous charges) Regulations, 2005 and other regulations prescribed by the Gujarat Electricity Regulatory Commission.
- f) Direct the Respondent to refund the amount as admissible after revising the estimate and the final bill.
- g) Direct the Respondent to give credit of the charges of SUP+SY Guarantee (Supervision Charges + system Guarantee) for laying 1600 sq. mm cable.
- h) Direct the Respondent to give credit of the charges of liaisoning with the Ahmedabad Municipal Corporation for road opening permission.
- i) Direct the Respondent to give the credit of the salvage value of the dismantled materials of conductor, EHT towers and other miscellaneous material.
- j) Direct the Respondent to pay the interest thereon as admissible.
- k) Grant any other relief that the Ombudsman may deem fit in the facts and circumstances of the case

2.2. The Appellant on 30.07.2021 file the additional submission as under.

**(1)** The Appellant stated that the Respondent had filed the reply in complete ignorance of directions and observations made by Ombudsman in daily order dated 22.06.2021. in order to get additional details for the records of the case. The details provided by the Respondent either lacks in records or not in consonance with direction of Ombudsman.

**(2)** With reference with the reply submitted by the Respondent with respect to the query (I), it is submitted that the Respondent had submitted the estimate for electric connection no.100348474 vide its letter no.4140 dated 05.03.2016 wherein the Respondent has computed the estimate cost with following consideration.

**A)** 10% contingency charges both on material and services which is as per normal practice which will take care of the variation in cost, quantity and unforeseen material & services.

**B)** Supervision charges of 15% are being recovered as per Chapter No. Vii, Clause No. (iv) of GERC's Notification No.9 of 2005

**C)** Landed cost of major items as per the attached purchase orders.

**(3)** The Appellant submitted that the Respondent should issue estimate in line with GERC's Regulations (Notification 9 of 2005), Licensee's Power to Recover Expenditure Incurred in providing Supply and Other Miscellaneous Charges (Regulations, 2005) wherein the Sub-regulation No. (iv) of Regulation 6 says that *"The cost data book shall be the basis of making the initial estimate for laying of electric line and/or erection of electrical plant for extending supply to the applicant"* therefore, the Respondent shall submit initial estimate as per its revised cost data books of relevant year. It deserves to mention here that from the year 2013 till 2016.

**(4)** Upon perusal of PO and estimate dated 05.03.2016, there is major deviation in the cost of material with respect to the rate consider in estimate and the rate mentioned in PO. Therefore, due to non-revision of cost data book, the Respondent has recovered exorbitant amount from the Appellant. The Purchase order submitted by the Respondent in its reply have little value and the Respondent have tactfully

avoided to submit the purchase order of Major material to avoid further query of Ombudsman.

**(5)** The Respondent had charged 10% contingency charges as cost of labour and material on estimate which the Respondent does not empower for the same. It is submitted that regulation No. 6 of Notification-2005 neither allow nor authorized any licensee to recover the contingency charges. The order no. GERC/Admin./RTI-28/R-243/4411/2017/No-1656 in RTI Application passed by the First Appellate Authority, GERC relating to contingency charges is submitted.

**(6)** With respect to query (II), the Appellant submitted that Ombudsman has categorically asked for computation of pro-rata charges and Justification (line carrying capacity vis-a versa the Applicant's load requirements etc). The Respondent has submitted only percentage of pro-rata charges in its reply. The table provided by the Respondent under the heading of details of pro-rata charges is nothing but hogwash in order to avoid the query raised by the Ombudsman in respect of justification and calculation details of pro rata charges recovered from the Applicant for augmentation of substation. The Respondent remained silent on following points;

- i.** Calculation of 180 and 240 MW.
- ii.** Detail Justification of % pro-rata charges.
- iii.** Installed capacity of existing (66 KV) and New (132 KV) Electric plant of each substations.
- iv.** Cost of existing (66 KV) and New (132 KV) Electric plant of each substations.
- v.** Salvage value of 22 Nos of transformers (66 KV) dismantled from Amraiwadi, Odhav and Vinzol Substation. Materials of EHT towers and conductors removed between Odhav to Amraiwadi substation. Materials of EHT towers and conductors removed between Amraiwadi substation to tower no-91 and other associated materials of Electric Plants of Odhav, Amraiwadi and Vinzol Substations.

The above cost is required to be deducted from the total cost of new electric plants of three substations to calculate pro-rata charges. Further, the Respondent has failed to consider the salvage value of dismantled material which is in complete contravention of the routine practice of the Respondent as reflected in the final bills of other construction work. A copy of table reflecting the total numbers of transformer dismantled and newly installed during the execution of work and copy of final bills wherein salvage value was considered for other construction work of the Appellant is submitted by the Appellant.

**(7)** The sub-regulation no. 5 (ii) of Notification, 2005 provides that in case, when the capacity of existing substation means existing electric plant is required to be augmented for meeting with the demand of the prospective consumers only the differential cost of the existing and new such electric plant will form the basis of calculation of pro-rata charges. However, the Respondent has not mentioned the modalities under which the cost of augmentation (the ratio of demanded load and total line capacity) is calculated.

**(8)** The Respondent had submitted an estimate for providing EHV connection to the Appellant by proposing augmentation (66KV to 132 KV) of Odhav, Amraiwadi, Vinzol and modification in Nikol-2 substation. Whilst detailing the estimate it had been proposed to lay 1200 sq. mm 132KV cable between Nikol 2 and Odhav substation. However, whilst execution of cable laying, the Respondent had laid 1600

sq. mm 220 KV cable instead of 1200 sq. mm cable and converted Odhav substation to 220 KV capacity directly from 66 KV. Augmentation of 66 KV Odhav Substation to 220 KV has been carried out under the heading "Increasing evacuation capacity of Nikol-2" in EHV capex with estimated cost of Rs.155.48 Crs.

**(9)** The Respondent had claimed the charges of augmentation works for EHV substation and overhead lines in the final bill and same cost is also again claimed under the head of the capital expenditures towards the above said various augmentation works in the various petition filed before the Hon'ble GERC for tariff revision for financial year 2005 to 2021. The Respondent has already recorded the cost of above stated works from the consumers of its licenses area as per the Hon'ble GERC orders.

**(10)** The Approval of above said 'schemes' and 'capex for augmentation of three substations from 66KV to 132KV and augmentation of 66KV-Odhav substation to 220KV' are different. For appreciation of cost of connectivity from Nikol-2 to Odhav and distinction of 'proposal of scheme' and 'capex details', it is worthwhile to mention here that the cost of one service line charges cannot be considered for two augmentation scheme. In order to get more clarity on this issue. The Appellant requested the Ombudsman to direct the Respondent to produce that a copy of approvals given by Chief Electrical Inspector, Ahmedabad on both the scheme.

**(11)** The term "distribution system" and "service line" has been defined in-sub-section (19) of section 2 of the Electricity Act and sub-section (61) of section 2 of the Electricity Act respectively and on bare perusal of the definition, it is clear that the licensee can recover only (i) the cost of service line and (ii) the proportionate cost of augmentation of Amraiwadi substation only. Nothing more than that could be recovered in view of the legal position narrated.

**(12)** With respect of para (III), it is deserved to be mentioned here that the Respondent has taken somersault in its stand with regards to explanation sought by the Ombudsman with regard to the AMC related charges. The Respondent have taken different stand before the two authorities while in the reply filed by the Respondent before the CGRF replied that "In this regards, we would like to state that during cable laying work execution, the laying agency is required to interact with various agencies like AMC water, drainage road, etc. They are required to visit respective offices for obtaining necessary work clearances. They are also required to get the certification for all the agencies once the work is being completed. TPL have included this activity in the scope of cable laying vendor.

While answering the same query raised by the Ombudsman the Respondent has replied that "As EHV cable laying involves digging of big ducts, at times there may be inadvertent damage to network of other utilities which requires to be repaired/replaced. In some instances, it also requires shifting some of third-party assets which fall under right of way of cable route. All such expenses incurred in above works are being considered under AMC related charges."

By reading of both the reply filed the Respondent submitted before different authorities that it is evident that stand taken by the Respondent regarding AMC charges are inconsistent and without any basis. A copy of detail statement of charges claimed in the final bill for liasioning with AMC for RO permission is submitted.

**(13)** As per section 67 of the Electricity Act, 2003. (Provisions as to opening up of streets railways, etc.) The Respondent being licensee responsible to obtain road opening permission from AMC to carry out the works for providing electric

connection and any expense like damage and compensation to the third party incurred during the execution of work, the Respondent shall bear that cost. A relevant part of section 67 is reproduce below.

**Section 67.** (1): A licensee may, from time to time but subject always to the terms and conditions of his licence, within his area of supply or transmission or when permitted by the terms of his licence to lay down or place electric supply lines without the area of supply, without that area carry out works such as -

- (a) ....
- (b) ....
- (c) ....
- (d) to lay down and place electric lines, electrical plant and other works;
- (e) to repair, alter or remove the same;
- (f) to do all other acts necessary for transmission or supply of electricity.

(2): The Appropriate Government may, by rules made by it in this behalf, specify, -

- (a) the cases and circumstances in which the consent in writing of the Appropriate Government, local authority, owner or occupier, as the case may be, shall be required for carrying out works;
- (b) the authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works;
- (c) the nature and period of notice to be given by the licensee before carrying out works;
- (d) the procedure and manner of consideration of objections and suggestion received in accordance with the notice referred to in clause (c);
- (e) the determination and payment of compensation or rent to the persons affected by works under this section;
- (f) the repairs and works to be carried out when emergency exists;
- (g) the right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor;

.....

(3): A licensee shall, in exercise of any of the powers conferred by or under this section and the rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(4): ....

(5): ....

**(14)** The regulation (iii) and (iv) of regulation 6, Notification- 2005 stipulated that the methodology of preparing the estimate. however, this regulation does not allow the licensee to recover the charges other than prescribed under the cost data book. This regulation also does not allow to claim the consultancy charges for preparing the estimate.

**(15)** In reply to query (iv) the Appellant submitted that the licensee is empowered to recover the supervision charges is in line with GERC's regulation (Notification 9 of 2005), Licensee's power to recover expenditure incurred in providing supply and other Miscellaneous charges which provides the framework and methodology for preparing estimate for various miscellaneous work of the licensees these provisions require the licensee to charge supervision charges at 15% on the cost of the materials and labour charges. Details of charges recovered by the Respondent for system guarantee and supervision charges is submitted by the Appellant.

**(16)** On two occasion the Respondent had recovered 15% supervision charges on labour cost for cable lying works, first 15% charges recovered on labour cost for cable laying works as per bill submitted by the vendor to the Opponent and again 15% charges added on the same bill upon submission of final bill which is absolutely illegal and unjustified. The copy of order in first appeal no. AR-36/2021 under the RTI Act passed on similar ground in submitted by the Appellant.

**(17)** The designing the electrical network is the responsibility of the Respondent, even otherwise if the Respondent preferred to have it designed by some external agency then the cost regarding the same is to be borne by the Respondent only. Since regulations of 2005 does not stipulate any regulations where the Respondent can recover the charges other than prescribed under the cost data books nor this regulation empower to claim consultancy charges for preparing estimate.

**(18)** In reply to query (v) the Appellant submitted that the answer submitted by the Respondent to this query is vague and ambiguous. The contention raised by the Respondent that since the Appellant has availed new service, hence question regarding salvage value of dismantle material does not arise is devoid of substance and absolutely wrong in its assertion.

**(19)** As per the information received by the Appellant, following materials during augmentation of Odhav, Amraiwadi and Vinzol substation including modification carried out in Nikol-2 substation.

- 22 nos. of transformer (66KV).
- Materials of EHT towers and conductors removed between Odhav to Amraiwadi.
- Materials of EHT towers and conductors removed between Amraiwadi substations to tower no.91.
- Other associated materials of Electric Plant of Odhav, Amraiwadi and Vinzol substations.
- Material dismantled during modification carried out at Nikol-2 substation.

It is submitted that the Respondent has not accounted abovementioned dismantled materials as salvage value which required to be reflected in the final bill.

**(20)** Some of the bills supplied by the Respondent in reply are not related to the work carried out during the augmentation of the sub-stations for HT connection at Apparel park. Therefore, the Respondent is put to strict proof thereof if the Respondent intends to continue to rely upon the same in support of its reply. The Respondent being reputed company should have avoided this kind of trickery to achieve its desired end.

**(21)** The reply filed by the Respondent in respect to the queries raised by the Ombudsman are misleading and beyond the prudent and reasonable limit. The Appellant prayed that to reject the reply at threshold and allowed the application filed by the Appellant.

**3.0.** The Respondent has represented the case as under:

3.1. Vide letter 03.03.2021, The Respondent submitted written reply as under:

The Appellant has submitted his grievance to the Ombudsman, Ahmedabad on 07.12.2020 regarding excessive recovery of the cost from the Appellant for the release of 45MVA load at 132KV by the Respondent for service No.100348373. The reply of the Respondent in this regard is as under:

(1) The Respondent is a company incorporated under the companies Act, 1956. The Respondent has filed reply in its capacity as the distribution licensee of Ahmedabad / Gandhinagar license area.

(2) The Appellant, Gujarat Metro Rail Corporation, has filed the present complaint in regard to purported excessive recovery of cost by the Respondent for release of 45MVA load at 132KV. The complaint has been filed subsequent to the order dated 16.10.2020 issued by CGRF, Torrent Power Limited, Ahmedabad in the matter.

(3) The Appellant in its appeal has mainly reagitated the same issues as were raised before the CGRF and made certain additional submissions. The Respondent craved leave of the Ombudsman to refer to and rely upon the proceedings before the CGRF.

(4) The Respondent also craved leave of ombudsman to file further submission in the present proceedings as may be required. The Respondent denied all contentions in the appeal, which are contrary to what is stated herein and inconsistent herewith, though the same may not have been traversed herein specifically.

(5) The facts of the matter in seriatim, as under:

a) The Appellant approached the Respondent with their application for power requirement for Metro rail project in Ahmedabad through mail dated 29.11.2014.

b) In response to the request of the Appellant, to provide supply to each RSS through two separate and distinct feeders, the Respondent vide its email dated 01.12.2014 clarified that supply shall be provided through 2 Nos. distinct 132 KV feeders for each RSS with 800 SQ. MM. cable from substation of the Respondent with alternative source of supply. Hence, issue regarding source of supply was clearly conveyed from the beginning.

c) The Respondent had also clarified its proposal to the representatives of the Appellant during meeting held on 25.11.2014 and 10.12.2015. Accordingly, the Respondent had prepared detailed estimate and shared with the Appellant vide letter No. 371, 783, 2117, 3413 and 4140 dtd.19.02.2015, 02.06.2015, 25.09.2015, 18.01.2016 and 05.03.2016 respectively.

d) The details of the scheme are summarized as under:

**I. 132 KV supply point at Apparel Park**

- Dual source of supply: one from 132 KV Vinzol via Amraiwadi and another from nicol-2 via Odhav via Amraiwadi
- Connectivity between Amraiwadi substation upto MEGA point through two feeders which is fed two different sources.
- System upgradation to meet GMRC's power requirement along with network strengthening.
- In turn, the estimated cost was worked out as shown in table.

Sr. No.	Description	Total Scheme Cost. Rs. in Crs.	Chargeable Cost Rs. In Crs.	Comp Cost Rs. In Crs.
1	Work at vinzol	10.72	2.68	8.04
2	66 KV line up grading between vinzol to Amraiwadi	20.77	5.19	15.58
3	Work at Amraiwadi ss	7.38	1.85	5.54
4	Connectivity from Nicol-2	33.10	6.21	26.89

5	Work for EHV line from Amraiwadi to Odhav	20.75	3.89	16.86
	<b>Total</b>	<b>92.72</b>	<b>19.81</b>	<b>72.90</b>

Note: Scheme cost is bifurcated in chargeable to GMRC and company cost based on ratio of load required by GMRC and line capacity of 132 KV i.e., 45 MW:180 MW.

Detailed cost estimation was given to the Appellant vide letter dated 05.03.2016. Details of work required to be carried out for each of the sub-head in table as conveyed to the Appellant is captured hereunder in brief:

- 1) Work at 132 KV Vinzol GIS: This was required as there as there was no spare bay to accommodate 132 KV Amraiwadi feeder in existing 132 KV AIS switchyard. Accordingly, scheme cost comprises of 05 Nos. GIS bays and their associated work as indicated in letter of the Respondent. Estimate does not include GIS building civil cost or cost of equipment's installed Vinzol.
- 2) 66 KV line upgrading from Vinzol to Amraiwadi: Scheme cost comprises of cost for existing line upgradation and cable connectivity between Vinzol and Amraiwadi. 66 KV line was upgrade to 132 KV from Vinzol to tower No. 99 and thereafter 132 KV cable was laid upto Amraiwadi considering safety aspects. Details of line upgradation & its associated works were indicated in letter of the Respondent.
- 3) Work At Amraiwadi: At Amraiwadi, 66 KV AIS was up graded to 132 KV GIS scheme cost comprises of 5 bays (02 Nos line bay for Vinzol, 02 Odhav feeder and 01 bus section). Estimate does not include GIS building civil cost or cost of equipment's installed at Amraiwadi.
- 4) Connectivity between Nicol-2 to Odhav: Scheme cost includes 02 Nos. 132 AIS bay cost at Nicol-2 and 132 KV cable connectivity between 220 KV Nicol-2 substation to Odhav. For cable connectivity between Nicol-2 to odhav, 220 KV cable was laid in place of 132 KV and same has been communicated to GMRC vide letter no.2681 dt. 19.10.2016. It was clearly stated in the letter that chargeable cost will be as per 132 KV network only. Estimate does not include GIS building civil/Electrical cost or cost of equipment's installed at odhav.
- 5) Connectivity between Odhav to Amraiwadi: Scheme cost includes 132 KV cable connectivity between 132 KV Odhav (Now 220 KV) substation to Amraiwadi. Based on above details, it can be seen that system Up-gradation has been carried out to meet the Appellant's demand requirement as well as to cater the Respondent's system demand and the cost of network has been shared accordingly between the Appellant and the Respondent in the ratio of the network utilization. It is pertinent to note out of total scheme cost of Rs. 92.72 Crs. at various locations only Rs. 19.81 Crs was charged to the Appellant and balance amount of Rs. 72.90 Crs. has been borne by the Respondent only.

## II. Connectivity between TPL Amraiwadi SS and MEGA HT point:

Scheme cost pertains to 132KV cable connectivity and its associated work as indicated in the Respondents letter. It includes 132KV 02 Nos. GIS Bay at Amraiwadi and 132KV cable connectivity between 132KV Amraiwadi SS to GMRC HT Point. Entire cost of Rs.10.18 Crs. is chargeable to GMRC as elements will be exclusively used by it.

- e) Based on above details, the estimate was served to the Appellant on 05.03.2016. This estimate was prepared in tandem with the mail dated

29.11.2014 subsequent correspondence and discussions for catering to the load requirement and application dtd. 29.12.2015 submitted by the Appellant.

**f)** Before serving estimate to the Appellant, entire scheme for catering demanded load was explained to the Appellant in detail and base on that the Appellant had paid estimate on 30.03.2016. It is pertinent to note that the Appellant has made payment without any objection. Subsequently, the Respondent had executed the job in line with the estimate and power supply was released on 03.01.2019.

**g)** After completion of Job and release of power supply, the Respondent had prepared final bill of Rs. 22,42,06,355 and sent to the Appellant on 23.09.2019 vide letter no. 3341.

**h)** The Respondent clarified that levy as per the estimate and final bill is in line with provisions stipulated in various regulations notified by Hon'ble Commission under Electricity Act, 2003 including Supply Code, 2015 and GERC (Licensees Power to recover expenditure incurred in providing supply and other miscellaneous charges), Regulations, 2005. Hence, the Respondent had refuted the demand of refund of charges paid by the Appellant. The Respondent further submitted that by dispute regarding estimated charges should have been raised before making payment of the same as provided in chapter VII (xii) of Recovery Regulation which is as under:

*"Where any difference of dispute arises regarding the estimate of laying of electric line erection of electrical plant and creating any other facilities for extending supply to the applicant, the matter shall be dealt with in the manner provided in the standards of Performance read with the GERC Regulations for the establishment of Forum for Redressal of Grievance of Consumers and the GERC Regulations for the Establishment of Ombudsman."*

The Respondent submitted that despite clear stipulation with respect to timing of raising any dispute the Appellant neither raised any dispute before making payment of quotation nor during execution of work. The Respondent submitted that it is pertinent to note that the Appellant has for the first time raised the dispute about estimation of charges in complaint filed by them before the CGRF on 04.08.2020 i.e., after period of more than four years from date payment of estimated charges. This clearly indicates that the dispute raised is an afterthought and barred by limitation. This also reveals that the Appellant is trying to alter accepted position which is not permitted as per the principles of "Promissory Estoppel."

**i)** The CGRF after hearing both the parties passed the order wherein it has observed that the recovery of expenditure made is in consonance with the provisions of the Recovery Regulations. Accordingly, the Respondent has complied with CGRF order including refund for 30 Meter free cable on public road as per Recovery Regulations and informed through letter no.2447 on 13.11.2020 to the Appellant to Provide bank details for transferring the amount electronically. The Respondent submitted that prior to this letter, the Respondent also informed the Appellant through mail dtd. 10.11.2020 for providing required bank detail. The Respondent submitted that despite repeated follow up for getting bank details, the Appellant has not cooperated with the Respondent to enable it to complete the process for refunding amount as directed by the CGRF. The Respondent requests the Ombudsman to take note of the Non-co-operation by the Appellant.

**(6)** To deal with the grounds raise by the Appellant in its complaint, it is submitted that the contentions raised by the Appellant are repetitive in nature and

hence in order to avoid duplication, the Respondent has considered reply for each of the distinct contention as under:

1. The Appellant has quoted the provision of section 42 (1) of the Electricity Act, 2003 and stated that it is the responsibility of the Respondent to develop and maintain an efficient distribution system to ensure that the Appellant can get supply at reasonable cost. The Appellant has further contended that the existing infrastructure should have been upgraded by the Respondent keeping in mind the load growth in the respective area and thereby question of recovery of even proportionate cost would not have arisen. The Appellant has also referred to certain other provision of the Supply code and Act.

In this regard, the Respondent submitted as under:

- A. The Hon'ble Commission in exercise of power conferred under section 181 read with section 45 and 46 has notified the 'Recovery Regulation for recovery of charges incurred for providing supply. The clause (i) and (ii) of chapter 5 of Recovery Regulation empower distribution licensee to recover cost of erecting new line, extension or strengthening of existing HT or EHT line. Relevant portion of the said Regulation is as under:

(i) *In case of applications where there is a need to erect a new HT line or EHT line from the substation or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in coordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost of terminal and metering arrangements at the premises of the consumer, but not including the cost of meter. Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.*

(ii) *In case of applications where there is a need to erect a new sub-station for extending supply to the applicant, the Distribution Licensee, on its own or in co-ordination with Transmission Licensee, shall prepare an estimate of the cost of the necessary works in the same way as indicated in subclause 4.2 (i) above. In cases of applications when the capacity of existing substation is required to be augmented, the differential cost of existing and new such electrical plant will form the basis of calculation of pro-rata charges. The estimate of the cost of such substation shall be based on the latest cost data as published by the Distribution Licensee and/or the Transmission Licensee.*

Respondent had drawn attention to the provision stipulated in clause no. 6 (iv) of 'Recovery Regulation' which mentions that '*The cost data book shall be the basis of making the initial estimate for laying of electric line and/ or erection plant for extending supply to the applicant.*'

Thus, by virtue of provisions of the Recovery Regulation, the Respondent is entitled to recover the cost of laying or extension of EHT/HT line on sharing basis.

- B. The Respondent submitted that it has developed reliable and efficient distribution network in its area of supply. In the present case, the Appellant insisted power requirement at 132 KV level which was not possible without upgradation of existing network. Existing 66 KV network was between:

- 1) 66 kV Odhav to 66 KV Amraiwadi SS.
- 2) 66 KV Amraiwadi 66 KV Vinzol SW yard (SS Vinzol was 132/66 KV SS)
- 3) 66 KV Odhav to 132 KV Nicol-1 (SS Nicol-1 was 132/66 kV SS)

The Respondent submitted that 66 KV feeder capacity is around 60 MW/90 MW as per the capacity of conductor used and various other consideration. Loading of line at the relevant time was already to the tune 45-50 MW. Hence, the Respondent, at the time of preparation of the scheme, intimated the Appellant

that the Respondent could cater the load requirement only after upgradation and augmentation of its network. It was also clarified that the Respondent could release load requirement of the Appellant from 132KV Vastral and 220KV Nikol-2 substation which were at long distance and was leading to high service line cost. After discussion at length with the Appellant, it was decided to upgrade the existing network from 66 KV to 132 KV, on cost of sharing basis to meet the power requirement of the Appellant from Amraiwadi. That resulted in significant reduction in service line charges to be borne and paid by the Appellant. Thus, the Respondent has ensured that supply is made available to the Appellant at reasonable cost.

C. The Respondent planned augmentation of distribution system based on historical trend while giving due consideration to the prevailing situation. Since the Appellant insisted power requirement on EHV, the Respondent was left with no other option but to upgrade its network. Accordingly, the Respondent had prepared the quotation of estimated charges on sharing of capacity of line and cable in the proportion of demanded load (Capacity booking) and safe loading capacity of the asset to be loaded i.e., only about 25% of total scheme cost is charged to the Appellant.

D. Further, Clause 4.3 of electricity supply code required the distribution licensee recover the cost of system up-gradation from the new customer as per recovery regulations. The relevant portion of the Supply code is extracted herein below.

*Licensee's obligation to extend the distribution system and consumer's share in the cost*

*"The licensee is responsible for ensuring that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply. The cost of extension of distribution mains and extension / up-gradation of the system up to the point of supply for meeting demand of new consumers and the cost of extension of service connection from the distribution mains to the point of supply shall be levied as per the GERC (Licensee's Power to Recover Expenditure incurred in providing Supply and Other Miscellaneous Charges) Regulations, 2005 and amendments thereof".*

Relevant Portion of the Recovery Regulation is as under:

DUTY OF THE DISTRIBUTION LICENSEE TO SUPPLY ELECTRICITY ON REQUEST AND RECOVERY OF EXPENDITURE

*"Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity, any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant."*

Based on the above, the Respondent refutes the allegations about arbitrary unjustified and illegal recovery of cost and further submits that it has recovered the cost in line with provision stipulated in the Supply code read with 'Recovery Regulation'

2. The Respondent submitted that the Appellant has referred to regulation 3 of 'Recovery Regulations' and stated that the Respondent has not provided free of

cost service line for 30 meters on public road for both circuits. In this regard, the Respondent clarified that it has already considered the refund of service line of 30 meters to the Appellant. However, second circuit from distinct source has been provided to the Appellant on its special request and therefore such special request is always chargeable to the consumer. The Fundamental principle behind such recovery is to ensure that the expenditure incurred for specific requirement of one consumer such as in case of the Appellant to provide dual feed, does not get passed on to other consumer. The Respondent submitted that according to definition mentioned in supply code, the entire electric supply line laid for supplying power to single customer is considered to be a single service line irrespective of it being supplied through single or multiple circuit.

*“Service line” refers to any electric supply line thorough which electricity is or is intended to be supplied to a single consumer either from a distributing main or immediately from the distribution licensee’s premises.*

According to above, there is no merit in the contention of the Appellant.

3. The Appellant has referred to the petitions filed by TPL before Hon’ble GERC seeking approval of capital expenditure incurred towards augmentation work of EHV substations and overhead lines and contended that when cost of such works are already recovered tariff, same is not recoverable from the Appellant should be refunded. In this regard, the Respondent submitted that GERC MYT Regulations mandates a licensee to seek approval of capital expenditure proposed to be incurred during a control period. In turn, after due prudence check, Hon’ble GERC approves such capital expenditure. The GERC MYT Regulations clearly provide the treatment to be given to capital expenditure scheme after obtaining a part of all the funds from the consumer in the context of deposit works. In turn, the Respondent has furnished all necessary details in the tariff proceeding. The Respondent submitted that all details sought of works attributable to the Appellant & to the Respondent with associated cost has been amply clarified by the Respondent in its reply letter dated 19.08.2020. Thus, question of any double recovery or refund to the Appellant in this regard does not arise.
4. The Appellant has stated that levy of cost-of-service line bearing 30 meters length and proportionate cost of upgradation and augmentation work of Amraiwadi substation can be said to be reasonable whereas levy of cost of upgradation and augmentation work at Vinzol, Nicol-2 and Odhav substation as well as laying of 132 KV line emerging from all substations to Amraiwadi is unreasonable, unjustified and not legal and hence entire cost recovered is required to be refunded. In this regard, the Respondent would like to reiterate that the basic requirement of the Appellant was for 132 KV Apparel Park supply point with two separate and distinct feeders at each RSS location. The same is mentioned by MEGA (Present Appellant) in its email dated. 29.11.2014. In turn, the Proposal was designed as detailed herein above at 5 (d) of this reply. Since entire scheme designing and execution have been done to accede to the request and requirement of the Appellant contention of the Appellant is devoid of any merits and the question to refund the amount demanded by the Appellant does not arise at all.
5. The Appellant has referred to APTEL judgement in appeal no.108 of 2015 in the matter of Dakshin Haryana Bijli Vitran Nigam Ltd. wherein APTEL has clearly held that consumer is liable to bear the line cost & share cost of augmentation of the line. However, for augmentation in power transformer in this case, APTEL has held that consumer is not required to bear the same. This is in the background

that there was an observation by CE (DHBVNL) that it is beyond scope of transmission licensee to levy such cost. Further, cost of scheme recovered through tariff cannot be levied on consumer again, and augmentation was already under execution before application. The Respondent submitted that the present case is clearly distinguishable as no power transformer cost is recovered from the consumer for either Odhav or Amraiwadi substations. The Respondent clarified that augmentation was carried out to cater specific requirement of MEGA including dual source of supply and the Respondent's load requirements and amount received from MEGA has been duly factored in tariff petitions filed before Hon'ble GERC in line with the provisions of GERC MYT Regulations, 2016.

6. The Appellant has referred to the supervision charges & system Guarantee Charges of 132 KV cable laying in the final bill and sought letter of quotation for such charges paid by the licensee. In this regard, the Respondent submitted that supervision charge is the cost incurred by the Respondent on account of work execution of laying the cable which includes the establishment cost and infrastructure usage cost. The recovery of supervision charges is in the line with provisions stipulated in recovery regulation notified by Hon'ble GERC. The Recovery Regulation provide for supervision charges at 15% on the cost of materials and labour charges. The relevant provisions of clause no. 6(ii) of recovery regulations are as under:

*'The cost data book can include supervision charges at 15% of the total cost of materials and labour'*

As regards the system Guarantee cost, it may be noted that the same is integral part of cable purchase order for designing the total cable route, planning span length, location of joint, type of joint, designing sheath voltage and earthing system etc. so as to ensure system healthiness for a stipulated period. For chargeability of system guarantee, clause no. 8(ii) of recovery Regulations notified by Hon'ble Commission under Electricity Act, 2003 provides as under:

*"The charges payable in advance for any work which the supplier may undertake for the consumer and which is not included in the foregoing schedule shall be at the actual cost of labour and materials plus 15% to cover overhead charges. Estimates will be submitted when necessary. The charges payable in advance for any work which the supplier may undertake on behalf of the consumer as an agency work, shall be the actual cost of labour and materials plus 15% to cover overhead charges. The estimates will be submitted accordingly."*

Thus, by virtue of provisions of the Recovery Regulation, the Respondent is entitled to recover the supervision and system guarantee charges for laying or extension of EHT/HT line.

7. The Appellant has sought credit of salvage value of material dismantled at Amraiwadi, Odhav and Vinzol substation and the conductor and materials of EHT towers. In this regard, the Respondent submitted that it has not recovered/removed any service line/ material since the Appellant has availed new connection.
8. The Respondent continuously monitors various parameters of the network and prepared plan for upgradation of network in advance. However, based on quantum of the Appellant load requirement (45 MW), it was imperative for the Respondent to upgrade the network especially for catering load requirement of Appellant. The Respondent had planned for phasing out its 66 KV network by 132 KV network and therefore proportionate cost was recovered from the

- Appellant, same would be reflected in ARR and thereby burden the other customer by way of tariff hike.
9. The Appellant has stated that it has sought two separate feeders and not two sources of supply. In this regard, the Respondent requested the Ombudsman to refer email dtd. 29.11.2014 the Referred email was initial communication to the Respondent from the Appellant for their power requirement at various RSS. As mentioned in Sr. no. (d) of mail dtd. 29.11.2014, the Appellant did not mention that it required power supply for apparel park from Amraiwadi substation. However, the Appellant categorically mentioned that the Respondent should confirm to provide two distinct feeders for each RSS. The Respondent through mail dt. 01.12.2014 confirmed the requirement of the Appellant. Relevant portion of the aforesaid communication is reproduced here in below for ready reference. *“Yes 02 Nos. distinct 132 KV feeders for each RSS with 800 SQ. MM. cable from our GRID substation which will have 132 KV Ring system with alternative source of supply.”* In turn, the Appellant vide reply dated 02.12.2014 has shown willingness to process a formal application seeking the power supply source at each RSS location. Accordingly, the Respondent through covering letter no. 4140 dtd. 05.03.2016 sent quotation for estimated charges that apparel park RSS will have dual supply source one from Nicol-2 and another from Vinzol via Amraiwadi. Even in the estimate letter the dual source of supply is mentioned clearly. The Respondent submitted that to note that they did not receive any comment or objection about dual source of supply from the Appellant either at the time of correspondence or while making payment or at the time of execution. Thus contention raised by the Appellant are totally baseless and only to mislead the Ombudsman. The Respondent requested the Ombudsman to consider the correspondence made by the parties including covering letter of quotation before the Appellant made the payment of estimated charges.
10. The Appellant has raised issue that the Respondent has not shared copy of purchase orders. In this regard, the Respondent submitted that it has provided copies of all major PO along with covering letter dtd. 05.03.2016 sent with quotation even though there is no provision in any Regulation that mandates the Respondent to share copy of all purchase orders with the Appellant.
11. The Respondent requested the Ombudsman to consider the facts represented by the Respondent before the CGRF on 11.09.2020 and order passed by the CGRF. Further, in context of TPL reply letter no.1485 dtd. 11.09.2020 the Appellant has simply represented “Not agreeable” without providing any proper reply with supporting arguments. Hence, even on that count the complaint of the Appellant ought to be rejected.
12. The Respondent submitted that the Appellant has made various observations regarding the impugned CGRF order in his Appeal memo. In this regard, the Respondent submitted as under:
- a) The CGRF while passing the order has considered all the statutory provision in every aspect and then passed the order. Further, the citation of the order passed by the Hon’ble CGRF in complaint No. 49/2017 had never been quoted before the CGRF. Even otherwise, the material fact of the present case and case cited by the Appellant are totally different and therefore the same is not required to be considered.
  - b) The CGRF order is amply clear as to why benefit of 30 Meter free length is not granted for second source of supply in the present case.

- c) The various commercial circulars issued by the GETCO in 2006 and 2007 which are not applicable to the Respondent as the present work did not pertain to GETCO network.
- d) The case cited by the Appellant and facts of the present case are different. Even otherwise, the Hon'ble High court in its judgement while rejecting the petitions of Shihor Steel Rolling Mills Association has upheld the right of recovery on pro rata basis and has clearly stated that action to charge on pro-rata basis cannot be said to be, in any manner unreasonable, arbitrary, irrational or violative of Article 14 of the Constitution.
- e) CGRF order is amply clear as to why credit of salvage value of dismantled material of 66 KV overhead line conductor and material of tower has not been granted.

13. The Respondent represented regarding the issue raised by the Appellant at para 9 & para 12 of Appeal memo.

- a) The Respondent submitted that it has provided relevant documents and details to the extent possible in response to the Appellant mail dated 27.05.2020 and 19.06.2020. Further, all the contentions raised in these mails have been raised in complaint filed in CGRF to which the Respondent has already filed detailed reply and the same has been considered by CGRF in its order.
- b) The Appellant has prayed for certain relief in sub-para-B to F of Para 9, which are not required to be granted in view of the Respondent detailed submission and clarification stated here in above.

14. Regarding the issue raised by the Appellant at point 13 of Appeal memo, the Respondent submitted that it has provided complete details in final bill along with comparison with estimated charges and therefore requirement to provide such information once again does not arise.

**(7)** Based on the submission made hereinabove, the Respondent most respectfully request Hon'ble Ombudsman to dismiss the appeal and issue appropriate order for cost.

3.2. The Respondent submitted replied on 05.07.2020 as under:

(1) Comparative statement of the estimated works and actual works with details break up and reasons for major variation was submitted as under:

(a) Entire Project was subdivided into seven different portions like (A) Network enhancement 1) Works at SSU Vinzol, 2) Works for 66KV Line upgrading Vinzol to Amraiwadi, 3) Works at Amraiwadi S/S, 4) Connectivity from Nikol-2 to Odhav, 5) Works for Transmission Line Amraiwadi to Odhav, (B) Works for Metro, 1) Works at Amraiwadi for Metro feeders, 2) Supply Line Amraiwadi to Metro HT.

(2) Computation of pro-rata charges and justification (line carrying capacity viz a versa applicants load requirement):

Details of Pro-rata Charges				
Sr. No.	Particulars	Network Developed by TPL	Load requirement of GMRCL	% Pro-rata Charges to GMRCL
I.	Network Enhancement			
A	Work at SSU Vinzol	180MW	45MW	25%
B	Work for 66 kV Line up-grading Vinzol to Amraiwadi	180MW	45MW	25%
C	Work at Amraiwadi SS	180MW	45MW	25%
D	Connectivity from Nikol-2 to Odhav	240MW	45MW	19%
E	Work from transmission line Amraiwadi to Odhav	240MW	45MW	19%

(3) The EHV cable laying involves digging big duct, at time there may be inadvertent damage to network of other utilities which require to be repaired/replaced. In some instances, it also requires shifting some of third-party assets which fall under right of way of cable route. All such expenses incurred in above works are being considered under AMC related charges.

(4) Cable route designing charge and system guarantee charges includes the following:

- Complete cable route survey and preparation of detailed cable laying plan.
- Preparation of EHV cable system design with optimum solutions in line with applicable standards.
- Monitoring and assessment work execution as per system design and preparation of as build drawing including responsibility of the technical system guarantee.

3.3. The Appellant has filed additional submission in response to clarification provided by the Respondent as sought by the Ombudsman in case No. 66/2020 on 30.07.2021. Vide letter dated 20.08.2021, The Respondent submit its clarification on the points raised by the Appellant as under.

(1) In reply to para no.2.2(1) the Respondent stated that the Appellant has stated that the details provided by the Respondent either lacks in records or not in consonance with direction of Ombudsman. In this regard the Respondent stated that they refute the baseless contention of the Appellant and submitted that the Appellant has made a general statement and not mentioned which specific detail, as sought by the Ombudsman in daily order dated 22.06.2021.

(2) The Respondent stated that the Appellant has contended that the Respondent should issue estimate as per the provision of GERC Regulations (Notification 9 of 2005), Licensee's Power to Recover Expenditure Incurred in providing Supply and Other Miscellaneous Charges (Regulations, 2005). Since the Respondent has not revised the printed cost data sheet in the year 2016, the Respondent has chosen to submit purchase order of major items along with this estimate letter. In this regard, the Respondent submitted that the estimate has to be prepared based on the basis of latest cost data book. Since, there were no consumer at 132 KV voltage level in the Respondent(Ahmedabad/Gandhinagar and surat license area) at that time, the issue of incorporating the material required for this category to issue estimate did not arise. However, to cater to the demand of the Appellant, the Respondent had prepared the quotation in accordance with the tentative cost available at the relevant time. Further, the Respondent also submitted the copies of major purchase orders as per the requirement of the Appellant to justify the cost charged. Hence, the contention of the Appellant are baseless.

The entire scheme for catering the demanded load was explained to the Appellant in detail before the preparation of quotation as well as before executing the required work. The query related to estimate not being prepared in line with the cost data book was never raised by the Appellant neither at the time of acceptance of quotation/during execution nor before the CGRF. Hence, the submission of the Appellant at his juncture is not tenable.

(3) The Respondent stated the The Appellant has contended that there is major deviation in the cost material with respect to rate considered in estimate and as mentioned in PO due to which the Respondent has recovered exorbitant amount from the Appellant. Further, the Appellant has alleged that the Respondent has avoided to submit purchase order of major material to avoid further query.

In this regard, the Respondent submitted that quotation was prepared based on cost available with the Respondent at relevant time and copy of major POs were shared with the Appellant along with the quotation. The Appellant has compared the value of material shown in final bill based on the purchase order provided by the Respondent at the time of serving quotation which is totally irrelevant, and an attempt has been made by the Appellant to mislead the Ombudsman. Therefore, allegation regarding recovery of exorbitant amount from the Appellant is baseless and far from the truth. The Respondent clarified that the Appellant has taken value of Material without applicable taxes from POs provided by the Respondent at the relevant time with quotation. The clause for levy of applicable taxes is clearly shown under the head "Terms and condition" of PO.

Moreover, the Respondent, in its submission dated 05.07.2021 has included all relevant supporting documents regarding clarification of cost incurred. Hence allegations made by the Appellant are baseless and false.

(4) The Respondent stated the Appellant has referred to contingency charges of 10% levied on cost of labour and material and stated that GERC Regulations neither allow nor authorize licensee to recover such charges. The Appellant has referred and relied on the Hon'ble GERC reply in its RTI application. In this regard, the Respondent submitted that the 10% contingency charges was shown in the quotation to take care of any unforeseen conditions that may arise during the execution of work including variation in cost & quantity of material and labour as prudent practice. The Respondent clarify that the same has already been adjusted in the final bill. There is no mention of contingency charges in the final bill sent to the Appellant. The Respondent submitted that the issue of Levy of 10% contingency charges was never raised by the Appellant neither at the time of acceptance of quotation/during execution nor before the CGRF. Hence, the submission of the Appellant at this juncture is not tenable.

(5) The Respondent stated The Appellant has alleged that the Respondent has submitted only percentage of pro-rata charges in its reply and has remained silent on certain points. The Appellant has also stated that the Respondent has failed to consider the salvage value of dismantled material in contravention of routine practice. The Appellant has referred to provisions of GERC regulations and stated that only differential cost of new and existing electric plant will form the basis of calculation of pro-rata charges. In this regard, the Respondent clarify that the Appellant had made baseless allegation. The Respondent submitted that item wise details for each of the sub-part of the entire work along with the computation of pro-rata charges of each item is mentioned in the submission of the Respondent dated 05.07.2021 in compliance to the daily order issued by the Ombudsman dated 22.06.2021. The Respondent submitted the there was a detailed discussion about the computation of pro-rata charges along with the methodology and each and every item has been clearly explained to the Appellant before serving quotation which was paid by the Respondent without raising any dispute at any stage of payment of estimate or execution of work. In turn, the Respondent has charged the Appellant as per the methodology discussed and decided before serving quotation. The Appellant is clearly making an attempt to escape from its liability and thereby violating the principle of promissory estoppel.

Also the Appellant has sought the credit of salvage value of material dismantled at Amraiwadi Vinzol and Odhav substation, and conductor and material of EHT towers. In this regards, the Respondent submitted that it has not

recovered/removed any service line/material as the Appellant has availed new HT connection. The Respondent clarified that it has not recovered any charges out of augmentation or upgradation of new transformer installed at Vinzol, Odhav and Amraiwadi Sub-station. Hence, the allegation made by the Appellant that the Respondent has been silent on these issues is baseless and irrelevant.

As per clause 3.7 of the Hon'ble GERC Regulation no.9 of 2005, the substation and EHT towers are property of licensee.

*"The entire service line, notwithstanding that a portion thereof has been paid for by the Consumer, shall be the property of the Distribution Licensee and by whom it shall be maintained and the Distribution Licensee have a right to use it for the supply of energy to any other person by tapping the service or otherwise except if such supply is detrimental to the supply to the consumer already connected therewith."*

(6) The Respondent stated that the Appellant has claimed that the Respondent had submitted estimate for laying 1200 sq. mm 132 KV cable between Nikol-2 and Odhav substation. However, while executing the work, the Respondent has laid 1600 sq. mm 220 KV cable. The Respondent has reiterated the same contention and alleged illegal recovery of charges in PO. In this regard, the Respondent clarified that it had already intimated the Appellant regarding the change in the scheme of upgrading Odhav substation from 132 KV to 22 KV for technical reasons vide letter dated 19.10.2016. In the letter, the Respondent has clearly mentioned that "As far as sharing of cost of the connectivity is connected, there shall be no change and your contribution will be on the basis of cost delivered for 132 KV Amraiwadi Odhav Connectivity proportional to the length of the cable connectivity between Nicol-2 to Odhav" The Respondent reiterated that it has recovered the cost as per 132 KV/ 1200 SQ. MM cable only. Hence, the allegation made by the Appellant of being charged illegally and the Respondent submitting wrong PO is not true.

(7) The Respondent stated that the Appellant has contended that charges for augmentation works for EHV substations and overhead lines in final bill are again claimed by the Respondent under the head of capital expenditure in various petitions filed before the Hon'ble GERC from the year 2005 to 2021. Hence, the Respondent has already recovered the cost of augmentation works from the consumers of its licensed area. In this regard, the Respondent clarify that the GERC MYT Regulations Mandates a licensee to seek approval of capital expenditure proposed to be incurred during a control period. In turn after due prudence check, Hon'ble GERC approves such capital expenditure. The GERC MYT Regulations clearly provides the treatment to be given to capital expenditure scheme after obtaining a part or all the funds from the consumer in the context of deposit works. In turn the Respondent has furnished all necessary details in the tariff proceedings. All details sought of works attributable to the Appellant and to the Respondent with associated cost has been amply clarified by the Respondent Hence contention of the Appellant that charges of augmentation work for EHV substation shown in final bill to the Appellant having been recovered from other customers of its licensed area are baseless and false.

(8) The Respondent stated the Appellant has further contended that approval of 'scheme' and 'capex for augmentation of three substations from 66KV to 132KV and augmentation of 66 KV-Odhav substation to 220KV' are different. Cost of one service line charges cannot be considered for two augmentation scheme. In this regard, the Respondent would like to clarify that all the schemes which were designed for connections of the Appellant were discussed during the meetings with detailed

single line diagram and accordingly quotation was served to the Appellant. Contention of the Appellant regarding one service line charges for two augmentation scheme is an attempt to mislead the Ombudsman. Licensee is taking approval of various capital expenditure scheme from the Hon'ble GERC. In the present case to cater the 'specific requirement' of the Appellant, the Respondent had to carry out upgradation of its network which inter-alia necessitated upgradation work under different schemes pertaining to Nicol-2, Vinzol, Odhav, and Amraiwadi. Details of each of these works has already been provided to the Appellant on multiple occasion. Hence, the objection raised is frivolous and deserves to be rejected.

(9) The Respondent stated that the Appellant has referred to definitions of the terms "distribution system" and "service line" and contended that licensee can recover only cost of service line and proportionate cost of Amraiwadi substation. In this regard, the Respondent refutes the allegation and submitted that the allegation raised by the Appellant is general and there is no specific mention of any item which is charged illegitimately. However, the Respondent reiterate that GERC's licensee Power to recover Regulation provides for recovery of charges incurred for providing supply. Under clause (i) and (ii) of Chapter 5 of 'Recovery Regulation' distribution licensee can recover cost of erecting new line, extension or strengthening of existing HT or EHT line.

Further section 46 of the Electricity Act, 2003 provides for recovery of charges by the distribution licensee from the customer.

The said provision is reproduced here in below.

*"(Power to recover expenditure): The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply."*

The entire scheme has been created for catering to the demand of the Appellant and therefore, the Respondent is entitled to recover the cost for laying or extension of EHT/HT line by virtue of provisions of the Recovery Regulation.

(10) The Respondent stated that the Appellant has alleged that the Respondent has altered its stand regarding explanation sought for AMC related charges. The Appellant has referred to provisions of section 67 of the Electricity Act, 2003 and stated that the Respondent is liable to obtain road opening permission to provide electric connection and expense like damage and compensation to third party incurred during execution of work. In this regard, the Respondent clarify that there is no change in stand taken by the Respondent before the CGRF and the Ombudsman. The information provided in the submission to Ombudsman is more specific and an in-detail explanation of the recovery of AMC related charges. As EHV cable laying involves digging of big ducts, at times there may be inadvertent damage to network of other utilities which requires to be repaired/replaced. In some instances, it also requires shifting some of the third-party assets which fall under right of way of cable route. All such expenses incurred are being considered under this head. The section 67 of the Electricity Act, 2003 also envisages licensee's requirement of carrying out repair and works for emergencies compensation to persons affected, etc. while laying electric lines in its area of supply.

(11) The Respondent stated that the Appellant has disputed the claim of consultancy charges being levied by the Respondent and stated that GERC licensees' power to recover Expenditure Regulations, 2005 provide for recovering supervision charges. Further, the Appellant has alleged that some of the bill

supplied in the reply are not related to augmentation of substation for HT connection at Apparel Park. In this regard, submitted that clause F of GERC notification No. 9 of 2005, the licensee is entitled to recover all such charges which are not included in the foregoing schedule/cost data book along with 15 % overhead charges. The said clause is as under:

*“The charges payable in advance for any work which the supplier may undertake for the consumer and which is not included in the foregoing schedule shall be at the actual cost of labour and materials plus 15% to cover overhead charges. Estimates will be submitted when necessary. The charges payable in advance for any work which the supplier may undertake on behalf of the consumer as an agency work, shall be the actual cost of labour and materials Page 24 of 24 plus 15% to cover overhead charges. The estimates will be submitted accordingly.”*

Hence, the claim of the Appellant is factually incorrect. Further, the Respondent has given all details regarding charges being levied by it vide its previous replies of the Ombudsman. The Respondent refers to and relies on them.

Further, regarding the allegation of the Appellant about submission of false billing documents by the Respondent and its remarks the respondent clarified as below.

The Respondent had awarded consolidated PO for the work of Vastral, Jamalpur and Vinzol route while the Appellant is charged for only Vinzol route. Bare perusal of the bill will clarify the same.

The Respondent clarify that it had planned for laying of 132KV cable from Norada to Airport route for additional connectivity of 132kV Airport substation and procured 132KV cable including system guarantee charges. Purchase order of system Guarantee charges was given through PO NO.3130010533. Due to permission related issues, the project of Naroda to Airport route did not materialize and hence the same was used in portion “work for line Amraiwadi to Odhav”. This was done in the interest of avoiding delay in execution of the works and ensuring there was no escalation in the cost incurred.

In addition to above, for completion of the entire work of the said portion i.e., “work for line Amraiwadi to Odhav”, additional cable of 132KV was procured. Purchase order of system Guarantee charges was given through PO No.3130011733. Hence total amount of both invoices pertaining to above mentioned POs was charged to the Appellant. As per the letter with reference no.2681 dated 19.10.2016, the Appellant under the portion “connectivity from Nicol-2 to Odhav” was charged on Pro-rata basis against both the invoices. The Respondent would like to reiterate that it has charged the Appellant only for the work attributable to new connection of the Appellant.

(12) The Respondent stated that the Appellant has alleged that the Respondent has claimed 15% supervision charges on labour twice which is illegal and unjustified. In this regard, the Respondent clarified that the Appellant has deliberately misrepresented Applicable tax charges as supervision charges and has made false allegation on the Respondent for recovering supervision charges on labour cost twice. The charges mentioned in the item wise bill include Applicable taxes while the supervision charges are shown separately in the summary table mentioned in the submission filed by the Respondent on 05.07.2021. The details given in the Submission of the Appellant dated 30.07.2021 are incorrect and misleading. The PO copies submitted by the Respondent to Ombudsman clearly mentions that the amount excludes Applicable taxes, and the Respondent is charges

with the Applicable taxes along with the PO amount. Thus, there is no double recovery of supervision charges on labour cost as maliciously claimed by the Appellant.

(13) The Respondent stated that the Appellant has contended that the reply filed by the Respondent are misleading and beyond prudent and reasonable limit. The Ombudsman may reject it. In this regard, the Respondent submitted that issues regarding estimate for grant of new connection raised by the Appellant is a clear violation of the doctrine of promissory estoppel. Based on the request letter of the Appellant, subsequent detailed discussions between the parties and the Appellant's action of payment of the estimated charges, without any protest, the Respondent has installed and commissioned the entire scheme to cater the demanded load of the Appellant. The Appellant, having availed the benefit of power supplied through the commissioned scheme is now estopped from its action to alter its position and make claims regarding amount paid earlier by them in detriment of the other consumers of the Respondent.

**::: ORDER :::**

**4.0.** I have considered the contentions of the Appellant and the contentions of the Respondent and the facts, statistics and relevant papers, which are on records, and considering them in detail, my findings are as under.

**4.1.** The Appellant is GMRCL demanding 45 MW Power demand from the Respondent. For catering such 45MW Power Supply from the Electric Networks of the Respondent, various meeting was held between the parties for reliable Power supply as well as upgradation and augmentation of the infrastructure of the Respondent and made the minutes regarding the same for which no dispute is there between the parties. The Present dispute is in relation with accounting of final bill and recovery of charges as per the provisions of Electricity Act 2003 and GERC's Regulation for recovery of charges.

Prior to dealing with the issues, it is required to read the observation made by the CGRF.

The technical fact of layout plan for giving 45 MW connection is briefly stated in para No. 4.6 of the CGRF order dated 19.10.2020, It is reproduced here under:

*"4.6 The technical fact of layout plan for giving 45 MW connection is as under:*

- 1. The Point of supply i.e. Apparel park depot of GMRC is located near existing 66 KV Amraiwadi transmission sub-station.*
- 2. 132 KV Vinzol and 132 KV Nikol Sub-stations were the emanating point of source of 132 KV supply.*
- 3. ideally opponnet have to erect 132 KV line from above two sub-stations up to Apparel park depot of GMRC to give dual feed as per their mutual communication.*
- 4. Looking to the geography of apparel park and other substation located in the vicinity;*
  - a) Instead of laying of 132 KV cable directly from 132 KV Vinzol sub-station to Apparel park depot, 132 KV cable was laid from 132 Vinzol to 66 KV Amraiwadi sub-station with upgradation of Amraiwadi sub-station from 66 KV to 132 KV.*
  - b) In the route of Nikol 132 KV sub-station to Amraiwadi sub-station, 66 KV odhav sub-station was there in center. Therefore, opponnet upgraded 66 KV Odhav sub-station into 132 KV Odhav*

*sub-station. Accordingly 132 KV cable was laid down from Nikol-2 sub-station to Amraiwadi sub-station via Odhav Sub-station.*

- c) By adopting upgradation of Odhav and Amraiwadi sub-station; the distribution point for giving dual feed of 132 KV is given from nearby upgraded 132 KV Amraiwadi sub-station.”*

- 4.2. It is of view that technical feasibility for laying appropriate required category of electric network along-with up-gradation of substation equipment's is solely technical work and covered under design/planning standards at the Respondent level. In this case, requirement of 45MW demand with dual sources of supply as per demand of the Appellant, the Respondent had prepared electric network system design looking to the existing network nearby available with future load growth demand and up-gradation of existing electric system proposed with 66KV substation up-gradation. The site survey was made by the Respondent and made various meetings with the Appellant prior to preparation of proposal for electric network design as well as up-gradation of substation and equipment. The Communications held with the Appellant by the Respondent considering the unique project of MEGA and demand of 45MW huge load demand for the purpose of providing transportation facilities at Ahmedabad city area. Thus, on part of planning/design of electric system and upgradation of necessary equipment/substation with providing dual source of supply at 132KV voltage level is seem to be as per provision of distribution code regulations. Here, it requires to read the Distribution Code Regulation, distribution system planning and security standard specifies the guideline for planning and methodology of Distribution system.

*1.0. Introduction:*

- 1. The Distribution System Planning and Security Standard specifies the guidelines for planning methodology of the Distribution System. The scope of this standard covers*

- (a) Quality of power supply*
- (b) Load forecast*
- (c) Planning procedure.*
- (d) Service area of a distribution network.*
- (e) Planning standards.*
- (f) Reliability analysis.*
- (g) Standardization of design of distribution transformer.*
- (h) Standardization of substation layouts.*
- (i) Reactive Compensation.*
- (j) Service Mains.*
- (k) Metering Cubicles*
- (l) Security Standards*

The Distribution Code -2004 speaks about the forecast of load growth and Planning of the electrical infrastructure:

*3.0 Load Forecast:*

- 1. The Distribution Licensee shall prepare a rolling short - term load forecast annually for a period of five years in his Area of Supply duly estimating the probable load growth and the consumption pattern of the Consumers. The forecast thus made*

shall be updated every year depending on the actual load that has come in that year and the changes in assumption, if any, required for the next years.

**3.2.4. Industrial Loads:** The power requirements for industrial sector shall be estimated under following three categories, viz.

(a) L.T. Industries;

(b) H.T. Industries with a demand of less than 5 MW;

(c) H.T. Industries with a demand of 5 MW & above.

The consumption in category (a) & (b) shall be on the basis of historical data duly considering the developments in future. In case of category (c), projection shall be made separately for each industrial unit on the basis of the information furnished by the industrialists and the Department of Industries.

**3.2.5. Non-industrial Bulk Supply:** The available data regarding the consumption of bulk supply to non-industrial Consumers such as research establishments, port trusts, military engineering services, supply to power projects etc., and the probable future developments in these areas, shall be considered for the forecast.

**3.3.1.** Load forecasting methods using the above data and relevant indices by adopting one of the suitable methods applicable to specific locations and prevailing conditions shall be adopted.

**3.3.2.** In addition to the above, the effects of demand side management, requirement of power for pending applications, the increase in demand due to improvement in the operating frequency close to 50 Hz shall also be estimated. The Distribution Licensee shall work out Peak Demand for each of the succeeding five years relating to Connection Point/ Interface Point with the Transmission System as well as the annual Energy Demand and Peak Demand for each of the succeeding five years for overall Area of Supply on the basis of Load forecast. However, if the Distribution Licensee receive power at a number of Connection Points / Interface Points in a compact area, which are interconnected in a ring, then such Distribution Licensee shall forward the overall short-term Demand forecast at each Connection Point / Interface Point with the variation or tolerance as mutually discussed and agreed upon with the STU.

**4.1.** The Distribution System shall be planned and developed in such a way that the system should be capable of catering the requirement of all categories of Consumers with a safe, reliable, economical and quality supply of electricity as indicated in clause 2.0 of this section. However, the Consumer shall extend full support to the Distribution Licensee to enable the Distribution Licensee for quality supply of electricity. The Distribution System shall conform to the statutory requirements of all the relevant code, standards and acts in force.

It is also required to read Section-1 of Section-43 of Electricity Act, 2003 and Clause-3 of Notification No.9 of 2005.

**Section 43. (Duty to supply on request):** --- (1) <sup>1</sup>[Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the

electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

<sup>1</sup>[Explanation.- For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.]

### **3 DUTY OF THE DISTRIBUTION LICENSEE TO SUPPLY ELECTRICITY ON REQUEST AND RECOVERY OF EXPENDITURE**

*“(i) The Distribution Licensee shall, subject to the provisions contained in Section 43 of the Act, fulfill his obligation to supply electricity to the premises of consumers.*

*(iii) Subject to the provisions of the Act and these Regulations and subject to such directions, orders or guidelines as the Commission may issue from time to time, every Distribution Licensee is allowed to be recovered from an applicant, requiring supply of electricity, any expenses that the Distribution Licensee shall be required to reasonably incur to provide any electric line or electrical plant specifically for the purpose of giving such supply to the applicant.*

*(vi) The Licensee shall lay free of charge a service line (overhead line or underground cable depending upon the type of distribution system existing) up to a length of 30 meters from its nearest distributing main on public roads, outside the limits of the property in respect of which requisition for electricity supply is received.*

*(vii) The entire service line, notwithstanding that a portion thereof has been paid for by the Consumer, shall be the property of the Distribution Licensee and by whom it shall be maintained and the Distribution Licensee have a right to use it for the supply of energy to any other person by tapping the service or otherwise except if such supply is detrimental to the supply to the consumer already connected therewith.”*

It is a case in which the Appellant had demanded 45MW electric power supply i.e., EHV supply with dual source of supply at 132KV supply at Apparel Park. For such huge demand of 45MW, necessary infrastructure needs to be developed. In estimation of future load growth analysis as suggested in the provisions of Electricity Act, 2003. DISCOM has to prepared for the same and have to develop the necessary distribution network. As in this case such huge 45MW demand cannot become an existing infrastructure part to cater with.

It is of view that any DISCOM has to develop a requisite electric network for such type of huge load demand when demanded in accordance with the observation of technical parameters with the technical feasibility to cater the electric supply to the Appellant.

The base requirement of MEGA i.e., the Appellant is 45MW for 132KV Apparel Park supply point with the dual source of supply to cater power supply, the Respondent has identified the dual source of supply (1) 132KV Vinzol via Amraiwadi and (2) from Nikol-2 via Odhav via Amraiwadi connectivity between Amraiwadi S/s up to MEGA point should have two sources of the feeder.

The system upgradation/networks strengthening was the requirement at the Respondent level to cater power supply as per demand of the Appellant.

- 4.3. The case of the Appellant for demand of 45MW new power supply comes under EHT connection i.e., EHT connection means electricity supplied at a voltage equal to greater than 66KV. The recovery of cost i.e., estimate in such type of case is governed as per chapter V of licensee's power to recover expenditure incurred in providing supply and other miscellaneous charges) Regulations-2015.

5. PROVISION FOR HIGH TENSION / EXTRA HIGH TENSION SUPPLY

- (i) *In case of applications where there is a need to erect a new HT line or EHT line from the substation or extend the existing HT or EHT line or strengthening of existing HT or EHT line in order to extend supply to the applicants, the Distribution Licensee, on its own in case of HT, and in co-ordination with Transmission Licensee in case of EHT, shall prepare an estimate of the cost of aforementioned work including the cost of terminal and metering arrangements at the premises of the consumer, but not including the cost of meter. Such estimate shall be based on the latest cost data as published by the Distribution Licensee and/or Transmission Licensee.*
- (ii) *In case of applications where there is a need to erect a new sub-station for extending supply to the applicant, the Distribution Licensee, on its own or in co-ordination with Transmission Licensee, shall prepare an estimate of the cost of the necessary works in the same way as indicated in sub-clause 4.2 (i) above. In cases of applications when the capacity of existing substation is required to be augmented, the differential cost of existing and new such electrical plant will form the basis of calculation of pro-rata charges. The estimate of the cost of such substation shall be based on the latest cost data as published by the Distribution Licensee and/or the Transmission Licensee.*

As per argument of the Appellant as per his submission, the Respondent has not observed and followed the above provisions. Which needs to examine hereunder.

- 4.4. The estimate issued by the Respondent with tentative cost available at the relevant time while preparing the proposal was accepted by the Respondent in his reply being 132 KV Voltage level power demand of the Appellant, and no such type of customer were falls in the previous period. the Respondent had prepared the estimate in accordance with tentative cost available argued by the Respondent. The cost data book was also not updated by the Respondent as per the statement of the Appellant, in which the Respondent replied that this was not a contention before, CGRF, and hence not tenable. It is view that said argument is not filed before the CGRF by the Appellant but the point of grievance relating to final bill and accounting under deposit works, it takes a major role to decide the final bill and accounting as per the cost data book. Hence contention of the Appellant related with latest cost data book not available on website of the Respondent and same was not updated by the Respondent is true as per observation of records.

In this regard, it is of the view that the Respondent should have to update the detail cost data book every year as per Chapter no. 6 of the Notification No. 9 of 2005.

On other side, it is also view that demand of 45MW at 132KV voltage end, no such type of consumer falls in the electric network system of the Respondent as said by the Respondent. In view of same, this case is considered as unique case. Further, GMRCL is engaged in Metro Rail Project in city of the Ahmedabad and to run

transportation facilities business and 45MW Load demand was placed before the Respondent. Looking to this aspect, final bill and accounting made by the Respondent with submitting/producing copies of POs made by the Respondent and tried to justify the value of each major item in their final accounting statement. The Respondent had handed over the documents related with purchase of items / labour for the execution of works of the Electric infrastructure development to cater the load demand of 45 MW to the Appellant.

From above observation, as regards to finalization of bill in absence of the latest cost-data of the Respondent, reliance is placed on the PO's submitted by the Respondent for development of required Electric Network as scheme for catering 45 MW demand of the Appellant.

- 4.5. The issue pertaining to contingency charges @ 10% is concerned as per submission of records, the Respondent has adjusted the said amount in the final bill account. It is also view that the Appellant had not raised said issue regarding 10% contingency charges leviable.

The Appellant submitted the copy of RTI replied from PIO, GERC, and relied on the said submission. Here, it is to note that 10% contingency charges are not leviable as per provision of GERC Regulations. From the records, it is seen that the Respondent had prepared the final bill Account without recovery of contingency charges.

The Appellant sought the credit of salvage values of Material dismantled at Amraiwadi, Vinzol, and Odhav substation and conductor and materials of EHT to was. The Respondent stated that he has not recovered/removed any service line/materials as the Appellant has demanded new HT connections. Further, as per statement of the Respondent he has not recovered any charges arising out of augmentation/upgradation of new transformer installed at Vinzol, Odhav and Amraiwadi, substation.

- 4.6. The Respondent relied on Clause 3(vii) of Regulation 9 of 2005:

*vii) The entire service line, notwithstanding that a portion thereof has been paid for by the Consumer, shall be the property of the Distribution Licensee and by whom it shall be maintained and the Distribution Licensee have a right to use it for the supply of energy to any other person by tapping the service or otherwise except if such supply is detrimental to the supply to the consumer already connected therewith.*

The computation of pro-rata charges and justification of line carrying capacity vis-a-versa the Appellant's load requirements are worked out by the Respondent as per para 3.1(5)(d).

The Respondent has shown network enhancement for 180MW and against said network 45MW portion of load of the Appellant and thereby 25% pro-rata charges calculated. For connectivity from Nikol-2 S/s. to Odhav S/s. works for transmission line Amraiwadi to odhav, 240MW network demand estimated to cater in which sharing of 45MW load demand of the Appellant and thereby 19% pro-rata charges calculated.

In the calculations provided by the Respondents, cost of transformers at substation were not calculated in the estimate. Therefore, the argument of the Appellant to give credit of salvage value of 22 Nos. of transformer in the final bill is not legal one and not valid. The Respondent had developed electric networks with upgradation of substations.

The Appellant relied on the final bill accounts of various other works under area of the Respondent and submitted the final bill copies of the said works which are on records as under.

- 1) Final bill for 132KV D-S line undergrounding both tower No.11 to 18 at Akhbarnagar to RTO, the letter No.1678A dated 23.09.2019.
- 2) Revised final bill for undergrounding 132KV EHT Gandhinagar transmission line near Motera, TPL letter No.704 dated 23.07.2020.
- 3) Final bill for shifting of 132KV D-TH line underground cross road at meter No.SP-62, Reach-2, Thaltej, TPL letter No.2193 dated 24.07.2019.
- 4) Final bill for undergrounding of 132KV D-TH both tower location No.7 to 15 at Akhbarnagar Ref. TPL letter No. 224 dated 26.07.2019.

In above underground works, the Respondent had credited the salvage value of line materials while in case of present demand of 45MW new EHT connection, the Respondent had commissioned the electric networks including upgradation of existing electric networks 66KV line to 132KV line + 66KV line to 220KV line, overhead network + underground network mixed.

The removed line materials were not considered by the Respondent while preparing final bill of the Appellant. The salvage value of removed material are required to take into account in the final bill accounting as per the accounting Procedure.

As per the demand of load of the Appellant Proportionate line sharing cost recovered by the Respondent as per the submission made by the Respondent. The recoverable value to be shown in the final bill account. As per the accounting procedure as shown in Chapter-7 of Notification no.9 of 2005. In case of deposit, work details final bill is to be prepared in any case, whether case comes under for new connection if fixed cost not applied or any service-related case like, shifting of line, equipment etc. There should be a uniform practice to be follow by the Respondent looking to aforesaid provisions of the Regulation No. 9 of 2005.

- 4.7. The Appellant has submitted detail statement of charges for liasioning with AMC for RO permission. A comparison statement produced by the Appellant stating estimated value and final bill values.

It is seen that there is deviation in estimated value and final bill values as per PO orders placed by the Respondent and on that issue updating of cost data of relevant year had not been done by the Respondent accepted on the PO issued and execution of works. It seems that the Respondent has recovered line sharing base-pro-rate AMC charges for RO permission.

The RO charges towards AMC is part of expenditure at the Respondent's end for whole project of commissioning of electrical networks in which 45MW demand requirement of the Appellant catered. This is a special project in which electric network expansion/new development created as per request of 45MW demand of the Appellant.

- 4.8. The Supervision charges and system generated charges for whole project of development of electrical infrastructure has been shown recovered in proportional to load demand as per submission of documents and has been confirmed by the Appellant with submitting deviation in estimated value and actual values as per PO order. It is seen that whole project development is made in view of 45MW demand by the Appellant with prior discussions and various meetings with the parties and sharing details in that relation by the Respondent.

- 4.9. The question regarding recovery of service line charge of length of 30 meter free for both the service line from nearest distribution main is concerned that in this case the Appellant has requested 45 MW load demand from the Respondent with dual source of supply. Accordingly the Respondent has provided 132KVA point of supply at the Apparel Park via dual source of Supply that is 1) From 132KVA Vinzol via Amraiwadi and another 2) from Nikol-2 via Odhav via Amraiwadi. The connectivity provided between Amraiwadi substation up to MEGA point with 2 (two) feeders. It is required to read the definition of service line. As per the licensee Power to recover the expenditure incurred in providing supply and other miscellaneous charges, Regulation, Notification No.9 of 2005, Chapter-2, 2.1(XIV) speak about the service line.

*“(xiv) "service line" means any electric supply line through which electricity is, or is intended to be, supplied –*

- i. to a single consumer either from a distributing main or immediately from the Distribution Licensee's premises; or*
- ii. from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main.”*

Further from Chapter 7 (VII) Manner of Accounting and adjustment 7(I) states as under:

*Before taking up the laying of electric line, erection of electrical plant and creating any other facilities required for extending supply to the applicant seeking new connection, the licensee shall estimate the charges for the same. Free length up to 30 meters of service line will be provided in all cases.*

In this case, the Appellant has requested for dual source of supply and accordingly the Respondent has provided dual source supply. It is to note here that as per the direction passed by the CGRF, the Respondent has credited cost of free 30-meter length in the account of the Appellant. The Appellant is one consumer on the record of the Respondent for requirement of 45MW load demand under EHV supply. As per the tariff schedule for the Respondent licensee area and observing the general condition of the tariff for the power supply are applicable only to one point of supply. The Appellant is one consumer on the record of the Respondent and accordingly free length of 30-meter charges calculated and adjusted in the account of the Appellant. as per the direction of CGRF, order is as per the provisions of notification No. 9 of 2005 as well as tariff order passed by the GERC.

- 4.10. The Appellant raised the issue related with the recovery of augmentation charges of the substation. It is required to read the regulation 5 (I) (II) in this regard of notification no. 9 of 2005. As per the above Regulation, the differential cost of existing and new such electrical plant will form the basis of calculation of pro-rata charges. The Respondent submitted the statement of charges recovered from the Appellant. For the development of electric network as well as upgradation of the existing 66 KV substation into 132 KV substation for providing dual source of supply to the 132 KVA Apparel Park point of supply for load demand of 45 MW. From the calculation, it is seen that as per the load demand of the Appellant proportionate sharing of existing network and augmented network which are calculated by the Respondent in the calculation sheet for providing 45 MW load demand to the Appellant. The substation augmentation charge recover by the Respondent is as per the provision stipulated in the notification no. 9 of 2005.

Further, it is seen that for providing 45MW load demand to the Appellant and needed require electric infrastructure that is erection of new HT/EHT line or strengthening of existing HT/EHT line with fulfilment of technical criteria. The Respondent had workout the estimate for the same and as per the sharing that is 45 MW load demand proportionate sharing component of estimate recover in the estimate. Thus, the argument pointed out by the Appellant to verify the charges recover for the erection of electric network infrastructure and upgradation of substation are in line with the provision stipulated in the regulation of notification no. 9 of 2005.

- 4.11. The question pointed out by the Appellant related with the various petition file before GERC by the Respondent and capital expenditure claimed by the Respondent towards various augmentation work for EHV and overhead line between the financial year 2005-06 to 2020-21. The Appellant has referred (1) the tariff order/truing up for year 2015-16 case No. 1627 of 2016. (2) Tariff order/truing up for year 2016-17 case No. 1696/2018. (3) Tariff order/truing up for year 2017-18 case No. 1764/2018 and submitted that the Respondent had claim the capital expenditure towards various augmentation works for EHV substation and overhead line, which covers the 66 KV line between vinzol and Amraiwadi substation, 66 KV Odhav and Amraiwadi substation and upgradation of 66 KV line. Looking to the claim made by the Respondent the Appellant submitted that as per the estimate issued by the Respondent for the upgradation of 66 KV line into 132 KV line and 66 KV substation into 132 KV substation and recovery for the same from the Appellant is dual recovery which is against the provision of Electricity Act, 2003.

In the above argument, it is of the view that relevant tariff orders/truing up of orders had been analyzed by the GERC as per the relevant regulations and as per the provisions of Electricity Act, 2003. The Appellant relied on the submission made by the Respondent before the GERC at relevant tariff petition and contended all the submission made by the Respondent. The data submitted by the Respondent before the GERC at relevant point of time, at the time of filing tariff petition/truing up of petitions are with the GERC and based on the said data, GERC has considered the submission made by the Respondent and decided the tariff order. The content of submission made by the Respondent related with capital expenditure is not produced before the Ombudsman and therefore it is not a question to analyze as per the argument of the Appellant. It is also here to note that the said things/arguments which is part of tariff order and which is under purview of GERC. Therefore, the contention of the Appellant related with the dual recovery in the estimate made by the Respondent is not consider hereunder at Ombudsman level and for that the Appellant has to prefer petition before the GERC to avail remedy.

- 4.12. The contention made by the Appellant at para No. 2.1(7)(18) is not correct and not acceptable in view of the 45 MW demand made by the Appellant. The distribution licensee should have to follow the Section 4.3, 4.4, 4.5 of Distribution Code-2004 as well as Section-43 of the Electricity Act 2003 for development and planning of necessary electrical infrastructure in the area of their supply of electricity.

- 4.13. The Appellant relied on the Appellate Tribunal Electricity Order dated 02.03.2016 in Appeal No.108/2015 M/s. Dada GanpatiGaur Product Limited, Sirsa, Haryana State.

*“The Licensee shall not claim any payment or reimbursement from the applicant for any expenditure incurred or to be incurred by the Licensee in terms of or under any scheme approved by the Commission or when such expenditure is otherwise allowed*

to be recovered through tariff by the Licensee as a part of the revenue requirements of the Licensee.”

On reading of the said finding and as per reliance placed by the Appellant, the Appellant has not placed any such order passed by the GERC for the recovery of electric infrastructure/expenditure incurred by the licensee in term of any such approved scheme by the commission. In absence of said documentary evidence, reliance placed by the Appellant on this ground is not accepted.

- 4.14. As per question raised by the Appellant regarding 2(two) source of supply and submitted that the Appellant has not demanded the 2(two) sources of supply. In this regard, the Respondent submitted the E-mail dated 29.11.2014 and stated that it is the Appellant who has demanded the 2 separate and distinct feeders at each RSS. Further, as per the E-mail dated 29.11.2014. It is required to read the content of E-mail which are as under.

Thus, E-mail is submitted with reference to meeting held on 25.11.2014.

*“This is in reference to the meeting held at your office on the above-mentioned date regarding the power supply requirements for the Ahmedabad Metro Rail Project. The Metro Rail Corridor is proposed along the East-West (Vastral Gam to Thaltej) and North-South (Matera Stadium to APMC) alignment.*

*In order to cater to the requirements for the operation of the Metro corridor, 4 (Four Nos.) RSS (Receiving substations), have been proposed at four ends of the alignment at locations as mentioned below:*

- a) East End: Apparel Park Depot*
- b) West End: Thaltej*
- c) North End: Sabarmati*
- d) South End: Gyaspur Depot*

*The alignment route drawing with the receiving sub-station (RSS) locations duly marked up is attached herewith for your ready reference.*

*The RSSs shall be fed via incoming power supply from Grid substation of M/s. Torrent Power Ltd. at higher voltage levels through two separate and distinct feeders at each RSS location.*

*A Further detail of the load demands is summarized as below:*

<i>SI. No.</i>	<i>Alignment</i>	<i>Location of RSS</i>	<i>Load Demand</i>
<i>1</i>	<i>East</i>	<i>Apparel Park Depot RSS</i>	<i>40 MVA</i>
<i>2</i>	<i>West</i>	<i>Thaltej RSS</i>	<i>40 MVA</i>
<i>3</i>	<i>North</i>	<i>Sabarmati RSS</i>	<i>25 MVA</i>
<i>4</i>	<i>South</i>	<i>Gyaspur Depot RSS</i>	<i>25 MVA</i>

*Subsequently, M/s. Torrent Power Limited may kindly confirm the following:*

- A) Name and location of the nearest Grid substations to the above proposed RSS Locations.*
- B) Voltage level of incoming power supply from Grid to RSS at each location.*
- C) Distance of the cable network from Grid substations to the RSS locations.*
- D) Confirmation of provision of two distinct feeder supplied to each RSS.*
- E) Confirmation to meet the load requirements at each RSS location.*

*Further, M/s. Torrent Power Ltd. may inform MEGA for any requirements or details pertaining to this matter and the same shall be provided as soon as possible. An early confirmation in this regard shall be highly appreciated.”*

From the contents of this mail as well as correspondence made between the parties, it is ample clear that the Appellant had demanded 2(two) separate sources of supply

for the said electric connection and accordingly the Respondent had prepared estimate for the same.

It is here to note that as per the E-mail dated 29.11.2014 and requirement of power supply by the Appellant after conducting the meeting on 25.11.2014 and 10.12.2015. The Respondent had prepared the detail estimate and share with the Respondent vide letter dated 19.02.2015, 02.06.2015, 25.09.2015 and 18.01.2016 and 05.03.2016. So, from all of the communication the question arises by the Appellant herein for dual source of supply is after completion of job work as per the load requirement of the Appellant and the said issue was not raised before the Respondent while making the Application for 132 KV source of supply or while making estimate payment for the same. Thus, the said argument is not acceptable in the present case. It is seen that the Appellant is very well aware for the dual source of supply as per the demand made by him under 132 KV Supply system.

- 4.15. The Respondent submitted the reply in which narrated the cost of estimate recovery as per the table shown in Para No.3.1(5)(d). It is also stated that the scheme cost is bifurcated in chargeable to GMRCL and the Respondent company cost based on load requirement by GMRCL is in line capacity of 132 KV i.e., 45MW:180MW.

The Respondent has submitted the reply as per Para No.3.1(6)(1)(B) and submitted that insisted 132 KV level power requirement was not possible without upgradation of existing 66 KV network. Further, as per the technical criteria, 66 KV feeder capacity can draw around 60 MW/90 MW as per the capacity of conductor used and various other Parameters. The requirement of the Appellant is in tune of 45MW and at the time of prepare of scheme for catering power supply to the Appellant, the Respondent had prepared the proposal with upgradation and augmentation of its network. The Reply submitted by the Respondent load requirement of the Appellant could be possible to release from 132 KV Vastral and 220 KV Nikol-2 substation which are longer distance and was leading to higher service line cost and therefore the discussion was made with the Appellant and decided to upgrade the existing network from 66 KV to 132 KV on cost sharing basis to meet the power requirement of the Appellant from Amraiwadi substation. The line diagram submitted by the Respondent that showing the existing electric network and existing nearby substation/equipment. The reply filed by the Respondent in this regard is consider as a valid.

- 4.16. The major issues raised by the Appellant and replied by the Respondent are noted hereunder with finding/observations are as under: -

1) The cost data book not updated and published by the Respondent on its website, the said contention is partially accepted with point to note that major items of Electric network developments are of 132KV system and rare items are covered under routine cost data. The load demand of the Appellant is specific and for that electric network's development works is not a routine type of nature of works and hence as per the demand of the Appellant, the purchase order/labour contract orders copies related with execution of the project were handed over to the Appellant. This aspect is noted.

2) Comparative statement of the estimate work and actual work with detailed break up and reasons for major deviation if any asked. In which the Respondent submitted replied on 05.07.2021 which is also noted. The Respondent had accepted the major deviation in the cost of project with showing the reasons. Being a specific works at DISCOM level for development of EHV electric networks, the said argument is noted. The Respondent is warning hereunder to update the cost data as per the provisions of GERC's Regulations and to upload in the website of the Respondent.

3) Computation of pro-rata charges & Justification (Line carrying capacity vis-a-versa, Applicant load requirement etc.) was replied by the Respondent.

The Respondent had developed infrastructure for 180 MW and out of that 45 MW demand of the Appellant i.e., 25% pro-rata charged to the network at 1) work at SSU Vinzol, 2) Work for 66 KV line up-grading Vinzol to Amraiwadi, 3) Work of Amraiwadi s/s while electric network for catering 240 MW demand developed by the Respondent and for demand of 45 MW of the Appellant i.e. 19% pro-rata cost shared for 1) works at connectivity from Nikol-2 to Odhav and 2) work for transmission line Amraiwadi to Odhav.

The Respondent had not charged cost of transformer at substation end in the above network route for providing 45 MW load demand. Line sharing capacity basis, cost in proportion to load demand of 45 MW was shown in the estimate which is noted.

4) The details of the AMC related charges with supporting documents showing charges related with proposed load requirement of the Appellant shown by the Respondent, which is also noted.

The whole project developed by the Respondent in view of 45 MW load demand of the Appellant. For electric system strengthening view with reliability of power supply point of view electric network design was developed with augmentation of existing substation with laying u/g cable network. It is seen that the Respondent had charged AMC RO charges as per Load sharing capacity i.e., in pro-rata basis, except Amraiwadi S/s to point of supply end i.e., Apparal park. As per the submissions of final bill calculations, this charge is as per line sharing basis and rightly covered under part of the Appellants end.

5) The supervision charges and system guarantee charges are shown leviable by the Respondent in the case of the Appellant. The Respondent relied on clause No. F of Notification no. 9 of 2005 and stated that the said charges are recoverable being deposit works. The estimate work out by the Respondent with recovering of consultant charges, supervision charges on materials and labour seems to be leviable. The Respondent had clarified the issue related with system guarantee charges stating the cable guarantee cost charges provided by the vendor and therefore said amount reflected in the estimate which is also noted. This seems correct and recoverable being a deposit works. The issue raised by the Appellant for salvage value of materials which removed from the system against proposed electric network i.e., laying of 220KV, 132 KV line for providing 45 MW load demand to the Appellant. The Respondent submitted that salvage value of materials was not given to the Appellant by way of accounting of final bill after completion of work. On this issue, the Appellant relied on the other such type of Line shifting/removal of electric networks which were commissioned by the Respondent and finalized account with giving salvage value credit in the account of final bills. This argument is noted.

It is of view that the Respondent had proposed and developed electric infrastructure development system mixed with upgradation of 66KV/220 KV voltage level as well as 66KV/132 KV voltage level with laying underground cable/overhead line with appropriate voltage level to strengthen the electric network with reliability of supply. To develop a such project certain electric line materials /equipment's are removed from the existing system and credited those materials to the Respondent end. On this aspect as the Respondent accepted that salvage values of such materials passed in the final accounting bills to other works and denied to passed the same in the present deposit works stating that the Appellant being a new consumer and said cost are not being passed on to the Appellant while finalization of account of the Appellant. The said argument is not in consonance with the accounting procedure

as per the Recovery regulation-2005. In view of chapter-7 of Notification No. 9 (Recovery Regulation) of 2005, in case of deposit works as stated by the Respondent for EHV category consumer with 45 MW load demand, final bill accounting to be made with following the relevant provisions of Notification No. 9 of 2005. In this case, it is of view that salvage value of removed materials of existing electric networks are to be taken into account in the finalization of bill of the Appellant.

6) On part of credit of 30-meter free service line provided to the Appellant as per direction of CGRF, the Respondent had given credit of cost of 30 mtr. free service line in the final bill account.

As the Appellant had requested dual source of supply and accordingly the Respondent had developed the two different and distinct sources of supply to the Appellant to safe guard of power supply and only one time 30 mtr. free length of service line cost granted by the Respondent to the account of the Appellant which seems correct and is as per norms. The second source developed by the Respondent is as per request of the Appellant and for that cost of development of same is chargeable. Even on part of tariff order, if the conditions are referred at this stage tariff is prepared for single point of supply end. In view of above 30 mtr. free service line cost granted by the Respondent is as per provision of supply.

7) Whether the representation filed by the Appellant is as per the provision of the regulation or not.

To deal with the above issue the contention of the Respondent is noted. The present grievance was developed by the Appellant after the receipt of the final bill of the said deposit work and on verification of the final bill and accounting procedure the grievance was developed and filed before the Respondent and CGRF and aggrieved by the CGRF order the representation is filed before the Ombudsman. On the above note it is considered that grievance filed is as per the laid down provision of Notification No.2 of 2019.

4.17. From above observation, concluding the representation, the directive are us under:

The requirement of load demand of the Appellant i.e., 45 MW in step manners, as asked by the Appellant was considered by the Respondent and design an electric network like augmentation of 66 KV substation, upgradation of the existing network from 66 KV to 132 KV and in certain part upgradation of existing network to 220 KV level on cost sharing basis with ensuring that demand of supply is made available to the Appellant at reasonable cost. In doing so, the Respondent had followed the recovery regulation, 2005, clause 5(i) & (ii) read with clause 4.2 (i) and prepared a detailed estimate showing recovery of cost in sharing of capacity expansion i.e., 45 MW load demand considered as 25% of the cost of project with 132 KV Line excluding the cost of power transformers at substation end and excluded the cost of the civil works of substation as per the details of breakup submitted by the Respondent.

The Appellant's load demand of 45 MW term as EHV category supply.

As per application of the Appellant, the Respondent had issued estimate and after payment of said, executed line erection works. The details job works was completed thereafter as per actual works carried out by the Respondent.

In the process of execution and commissioning of electric networks as per approval, upgradation of existing 66 KV electric network comes in the project and certain materials like conductor, towers, fabrications etc. removed from the existing 66KV

electric networks by way of upgradation of 66KV electric system to 132 KV /220 KV electric system. As per the Respondent, said removed/credited materials and salvage values of same were not considered in accounting procedure and same was not given credit to the scheme-project cost in this case.

The Respondent is directed to prepare the final account of deposit works of the Appellant for load demand of 45MW following the directives as mentioned above In Para No. 4.16(5). By giving credit of salvage values in the relevant segment of erection of line, the Project cost to be worked out segment wise as shown by the Respondent in Para No. 3.1(5)(d). On other end the Appellant is also directed to cooperate the Respondent to submit the required details of bank account for the credit of refund amount.

4.18. I order accordingly.

4.19. No order as to costs.

4.20. With this order, representation/Application stands disposed of.

S/d.  
(D.R Parmar)  
Electricity Ombudsman  
Gujarat State

Ahmedabad.

Date: 04.03.2022.