

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

In the matter of:

GERC (Licensee's Power to Recover Expenditure incurred in providing Supply and other Miscellaneous Charges) (Third Amendment) Regulations, 2023.

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S.R. Pandey, Member**

STATEMENT OF REASONS

1. BACKGROUND:

In exercise of powers conferred by sub-section (1) read with clause (z) of sub-section (2) of section 176 of the Electricity Act, 2003, the Ministry of Power, Government of India, has notified the Electricity (Rights of Consumers) Rules, 2020 (referred onwards as the GoI Rules) vide Notification dated 31.12.2020. Subsequent Amendment in these Rules has also been notified vide Notification dated 28.06.2021.

It is mandated upon the State Electricity Regulators, vide Ministry of Power letter dated 18.01.2021 to either make new Regulations or amend existing Regulations to align the Regulations with the said Rules notified by the Ministry of Power, Government of India. The Commission decided to make amendments in the Gujarat Electricity Regulatory Commission (Licensee's Power to Recover Expenditure incurred in providing Supply and other Miscellaneous Charges) Regulations, 2005 (referred onwards as the Principal Regulations).

Accordingly, Draft GERC (Licensee's Power to Recover Expenditure incurred in providing Supply and other Miscellaneous Charges) (Third Amendment) Regulations, 2022 were published inviting comments/ suggestions from Stakeholders. Public Notices in this regard were given on 21.02.2022 in two Gujarati Newspapers i.e. Sandesh and Gujarat Samachar in Gujarati language and one English Newspaper i.e. Mint in English Language. Also, Members of State Advisory Committee and Co-ordination Forum were informed in this regard through a letter. With an intention to give time limit of one month to the Stakeholders, last date of submission of comments/ suggestions was kept at 25.03.2022. Further, a few entities requested for time limit extension, and they were asked to submit their comments/ suggestions at the

earliest. Thus, enough opportunities have been given to the Stakeholders to provide their comments/ suggestions on the Draft Regulations.

In response to the above, the Commission received objections/suggestions from 6 stakeholders. The list of the objectors, who submitted their objections/suggestions on this draft Regulations is stated at **Annexure – 1**.

The Commission conducted public hearing for the aforesaid GERC (Licensee's Power to Recover Expenditure incurred in providing Supply and other Miscellaneous Charges) (Third Amendment) Regulations, 2022 (Draft Regulations) on 04/05/2022. The list of the Objectors who were present and participated in the hearing is stated at **Annexure – 2**.

2. VIEWS OF THE STAKEHOLDERS, ANALYSIS AND FINDINGS OF THE COMMISSION THEREON:

The Commission has considered the comments/suggestions received from the stakeholders and the submissions made by the stakeholders who had participated in the public hearing conducted on 04/05/2022 on the Draft Regulations, 2022 only. The Regulations have been finalised after detailed analysis and with due consideration of various issues raised by the stakeholders on the Draft Regulations

3. OBJECTIONS TO THE DRAFT REGULATIONS AND FINDINGS OF THE COMMISSION THERETO:

I. Clause 2.1 (xvii) of the Draft Regulations reads as under;

“Temporary Service” means supply of electricity will be given initially for a period not exceeding twelve months subject to review for further extension in accordance with the classifications of installation for purpose of permanent supply.

Comments/ Suggestions from the Stakeholders:

Some of the Stakeholders have suggested to include words ‘who cannot enter/ execute the agreement’ at the end of the definition of the Temporary Service.

Some of the Stakeholders have suggested replace the words ‘classifications of installation for purpose of permanent supply’ with the words ‘provisions of the Supply Code’ with justification that as the Commission has tried to align the definition of Temporary Service with the definition provided in the Supply Code Regulations as far as the period for Temporary supply

is concerned and there is also a need to align the definition with the categorization of Temporary Supply in the Tariff Order. In Tariff Order, there is no further classification based on purpose of permanent supply. Moreover, extension for Temporary Supply is governed in terms of Clause 4.57 of the Supply Code 2015. The same is also required to be clarified to ensure that there is no conflict in case of extension in temporary service.

Some of the Stakeholders have suggested to align the definition of Temporary Service with that provided in the Rights of Consumers Rules and also suggested to add 'Day and night cricket matches and likewise other sports tournaments' as temporary need to get temporary supply.

Commission's decision:

In regard to suggestion to insert words 'who cannot enter/ execute the agreement' at the end of the definition of the Temporary Service to align with the narration of corresponding category in the retail Tariff Orders, it is to mention that as per Supply Code, 2015, a consumer is liable to sign an agreement with Distribution Licensee. It is also stipulated in the Clause 4.100 (6) that validity of the agreement shall be two years. Thus, it is amply clear that a consumer who do not execute a proper agreement shall be granted supply initially for the twelve months, which is lesser than the agreement period of two years, and thereafter temporary supply period may be extended in accordance with the provisions of Supply Code even though the total period, after availing temporary supply exceeds two years using the facility of extensions. Accordingly, the words 'electricity will be given initially for a period not exceeding twelve months' in the definition makes it clear that a temporary consumer is not required to execute an agreement.

In regard to suggestion to replace words 'provisions of the Supply Code' in place of 'classifications of installation for purpose of permanent supply' in the definition of Temporary Supply, it is to clarify that meaning of the words 'classifications of installation' in the said definition is classification of installation based on system of supply as narrated in Clause 3.1 and 3.2 of the GERC (Supply code and related matters) Regulations, 2015 and does not mean to be classification of temporary consumer based on purpose of usage of electricity.

In regard to suggestion of providing clarification that extension of temporary supply is governed in terms of Clause 4.57 of the Supply Code 2015, there is no need to clarify such

thing in the said definition as Clause 4.57 detailed procedure for extension of temporary supply which is amply clear in the said Clause.

In regard to align the definition of Temporary supply word to word with that of GoI rules, it is viewed that the definition of temporary connection in GERC Regulations and narration in the tariff orders is broader than the definition of temporary connection given in the MoP Rules and also serves the meaning of the definition given in the GoI rules

In view of the above, it is decided to keep the definition of Temporary Service as per the Draft Regulations.

II. Clause 7 (vi) of the Draft Regulations reads as under;

(vi) The excess amount, if any, shall be refunded to the Consumer by issuing account payee cheque or by electronic mode within 30 days of energisation of connection, failing which the Licensee shall be liable to pay interest at a rate equivalent to the Late Payment Surcharge as per the prevailing Tariff Order issued by the Commission. The Applicant/ Consumer shall be given the detailed bill showing the details of item-wise estimation and actual expenditure along with item-wise figures of variance to the extent possible. Further, if Applicant/ Consumer seeks further information, the Distribution Licensee shall furnish the same or state the reasons for not furnishing the same within 10 days of receipt of such request.

Comments/ Suggestions from the Stakeholders:

Some of the Stakeholders have suggested to increase time limit for refund of excess amount of Demand Note to applicant, considering the volume and complexity of the process, while some Stakeholders have suggested to reduce time limit to refund excess amount to applicant.

Some Stakeholders have suggested to adjust excess amount in the electricity bill in case the excess amount under dispute/consideration is less than or equal to 50% of the (average) monthly bill, and if the 'actual' bill of the next month is lower than the amount to be adjusted, the remainder to be credited to the consumer's bank account (or e-wallet). Further, if the amount to be adjusted is greater than the monthly bill of a consumer, the same should be adjusted in the total bill of the next month and the remainder be carried through and the limit on the number of adjusted bills should additionally be mentioned in these regulations. Moreover, in case the excess amount is more than 50% of the monthly bill under consideration,

it is suggested that the amount be refunded to the consumer/ prosumer/ applicant as per the said Clause.

Some Stakeholders have suggested to pay interest at a rate equivalent to the Bank Rate applicable on 1st April of financial year rather than Late Payment Charge as Late Payment Charge is penalty for non-payment of dues within the specified period which cannot be imposed on Distribution Licensee because of delay in refund to the applicant due to administrative issues.

Some Stakeholders have suggested to undertake refund transaction through electronic mode rather than cheque mode of transaction due to cost associated with cheque mode of transaction and also increase usage of e-wallets only. To use cheque mode of transaction if amount is greater than a limit to be decided by the utility.

Some Stakeholders have suggested to use word 'Delay Payment' along with 'Late Payment' in case of failure to refund excess amount of Demand Note.

Commission's decision:

In regard to suggestions to decrease time limit for refund of excess amount, it is viewed that 30-day time limit is reasonable since the utilities are required to carry out certain activities that involves site visits and material accounting for finalization of works bill. Hence suggestion for reduction in the 30-day time limit is not accepted.

In regard to the suggestion for increasing the time limit for refund of excess amount to 90 days since the utilities require to obtain internal approvals from various authorities, it is viewed that Applicant/Consumer should be facilitated with prompt services in the present era of faster growth. Utilities should arrange their internal mechanism of seeking and granting approvals in such a way that the stipulated time line for refund is complied with. In view of the above suggestion for increase the time limit for refund of excess amount is not accepted.

In regard to suggestion of adjustment of excess amount in the electricity bill, it is viewed that process of refund of excess amount should be simpler. Refund of excess amount only through the electricity bill will not only cause delay in getting such refund but it may also create a situation that benefit of refund will be enjoyed by different person/entity in case of rented out premises for which electricity connection obtained by the of owner of the premises on his/her own name. Refunding the excess amount directly to the payee of the demand note is quite

proper and traceable too. Also, there are cases where utilities issue demand notes to the applicant of shifting of line/infrastructure etc. Such applicants need not necessarily be a consumer of that utility and hence, refund to such applicant cannot be made through electricity bill. Also, in the Draft Regulations at Clause 7 (vii), it is stipulated that excess recoverable amount shall be paid by Applicant/Consumer within 30 days of demand. Thus, for additional payment also, the Applicant/Consumer are made responsible to pay the Utilities within stipulated time period alike getting refund for excess payment directly, i.e., without waiting for the next electricity bill. In case such payment is not made within stipulated time, then only it has to be debited in the next bill of the consumer. In view of the above, suggestion to refund of excess amount through electricity bill only is not accepted. In order to facilitate the applicants who are not consumer of utility to get refund of excess amount in timely manner Clause 7 (vi) is modified as stated hereunder.

The suggestion of replacing word 'Late Payment Charge' by the word 'Delayed Payment Charge' is accepted in order to align the stipulation of the Regulations with the Tariff Orders.

In regard to suggestion for payment of interest at the rate equivalent to the Bank Rate instead of Late Payment Charge/ Delayed Payment Charge as per the Tariff Order, it is viewed that as per the Draft Regulations at Clause 7 (vii), utility shall debit the unrecovered amount of excess recovery to the electricity bill of consumer if the same is not paid by the Applicant/Consumer within 30 days. Once the amount is debited to the electricity bill, it is liable for Delayed Payment Charge as per the Tariff Order. Since, the Applicant/Consumer is made liable to pay the Delayed Payment Charge for non-payment of excess amount, the utilities are also made liable to pay the interest at the rate of Delayed Payment Charge for non-refund of excess recovered amount. Utilities should take appropriate care while issuing demand note to the applicant who is not a consumer so as to avoid any chance of recovery post work completion. In view of the above, suggestion about payment of interest at the rate equivalent to the Bank Rate in case of delayed refund by utilities is not accepted. Further this provision should not be taken as penalty on utilities since, utilities have enough resources to refund the excess amount to the Applicant/Consumer within stipulated time period.

In regard to use e-transactions mode only for refund of excess amount, it is viewed that applicant shall have option to get his/ her refund through either electronic or non-electronic transactions and accordingly, both options are provided.

Considering the above, the Clause 7 (vi) is modified as under;

(vi) The excess amount, if any, shall be refunded to the **Applicant/Consumer** by issuing account payee cheque or by electronic mode within 30 days of energisation of connection, failing which the Licensee shall be liable to pay interest at a rate equivalent to the **Delayed Payment Charge** as per the prevailing Tariff Order issued by the Commission. The Applicant/ Consumer shall be given the detailed bill showing the details of item-wise estimation and actual expenditure along with item-wise figures of variance to the extent possible. Further, if Applicant/ Consumer seeks further information, the Distribution Licensee shall furnish the same or state the reasons for not furnishing the same within 10 days of receipt of such request.

4. Amendment incorporated in order to align with GERC (SOP) Regulations, 2023 and GoI Rule 5 (8).

Clause 8 (ii) of the Principal Regulations reads as under;

All the charges proposed below in 8.1 and 8.2 are payable in advance.

Comments/ Suggestions from the Stakeholders:

In response to Draft GERC (SoP) Regulations Clause 4.9 one of the stakeholder suggested to align the provision of payment of testing fees by consumer with provisions provided in the GERC (Licensee's Power to recover expenditure Regulations), 2005.

Commission's decision:

It is observed by the Commission that as per GoI rule 5 (8), no testing fees to be charged at the time of reporting the meter to be defective (stuck up, running slow, fast, creeping or improperly recording or not functioning according to the specifications). The Testing fees shall be recovered from consumer through next bill only if it is found defective due to reason attributable to consumer. The same is incorporated in the GERC (SoP) Regulations, 2023. Whereas, the GERC (Licensee's Power to recover expenditure) Regulations, 2005 at Clause 8 (ii) specifies to recover meter testing fees specified at Clause 8.2 (E) (f) in advance. In order to align the GERC (Licensee's Power to recover expenditure) Regulations, 2005 with the GoI rule 5 (8) and GERC (SoP) Regulations, 2023 it is decided to make necessary correction in GERC (Licensee's Power to recover expenditure) Regulations, 2005 as under;

All the charges proposed below in 8.1 and 8.2 [Except charges mentioned at Clause 8.2 (E) (f)] are payable in advance.

Sd/-
(S. R. PANDEY)
MEMBER

Sd/-
(MEHUL M. GANDHI)
MEMBER

Sd/-
(ANIL MUKIM)
CHAIRMAN

Place: Gandhinagar

Date: 05/12/2023



Annexure 1

List of the Objectors, who submitted their objections/suggestions on draft Regulations

| Sr. No. | Name of Entity |
|---------|--|
| 1 | Gujarat Krushi Vij Grahak Suraksha Sangh |
| 2 | Centre for Energy Regulations |
| 3 | MGVCL |
| 4 | PGVCL |
| 5 | UGVCL |
| 6 | TPL |

Annexure 2

List of the Objectors who were present and participated in the hearing

| Sr. No. | Name of Entity |
|---------|----------------|
| 1 | MGVCL |
| 2 | PGVCL |
| 3 | UGVCL |
| 4 | TPL |

