

**`BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION
GANDHINAGAR**

Petition No. 2278 of 2023.

In the Matter of:

Petition against non-compliance of the Order passed in Petition No. 1729 of 2018 filed for implementation of 'Suryashakti Kisan Yojana (SKY) notified by the Government of Gujarat vide GR No. SLR/11/2016/2284/B1 dated 27.06.2018 and 29.09.2018 on pilot basis, for solarisation of agriculture connections under the supply jurisdiction of State Distribution Licensees (i.e., DGVCL, MGVCL, PGVCL and UGVCL).

Petitioner : President SKY Scheme Committee of Trambovad Feeder

Represented By : Ld. Adv. Mr. R.N. Purohit along with Mr. G.R. Darji, Mr.
Vikrambhai Patel and Mr. Chirag

V/s.

Respondent No. 1 : Madhya Gujarat Vij Company Limited

Represented By : Ld. Adv. Ms. Shristi Khindaria along with Mr. V.J. Trivedi

Respondent No. 2 : Gujarat Urja Vikas Nigam Limited

Represented By : Ld. Adv. Ms. Shristi Khindaria along with Mr. P.P. Solanki

Respondent No. 3 : Energy and Petrochemicals Department, Govt. of Gujarat

Represented By : Nobody was present.

CORAM:

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

Date: 28/01/2025.

DAILY ORDER

1. The present matter was listed for hearing on 02.01.2025.
2. At the outset, Ld. Adv. Mr. R.N. Purohit, appearing on behalf of the Petitioner, submitted that the Commission may permit him to file Vakalatnama on behalf of the Petitioner in the present Petition. He further submitted that the farmers of the State have been suffered and also not able to take benefits of 'Surya Kishan Yojana' (SKY) Scheme notified by the Government only account of due negligence of the State distribution licensees. Therefore, the present Petition has been filed by the Petitioner due to non-compliance of Order passed by the Commission in Petition No. 1729/2018 which was filed for implementation of SKY Scheme notified by the Government of Gujarat vide its GR No. SLR/11/2016/2284/B1 dated 27.06.2018 on pilot basis for solarisation of agriculture connections under the supply jurisdiction of State Discoms.
 - 2.1. He submitted that the dictionary meaning of term 'subsidy' as provided in the aforesaid GRs refer to money that is paid by a Government or other authority in order to help an industry or business, or to pay for a public service and may be given on grounds of income distribution, to improve the incomes of producers, or the welfare of consumers. He submitted that the liabilities of the consumers are limited to 40% of the total cost whereas the State Government has taken loan to fulfil his commitment for 30% subsidy and the installment of this loan is met through the amount realized on account of injected unit into system over and above consumption made by the consumer at Rs. 3.50 per kWh in form of EBI over and above by DISCOM limited to 1000 unit/year/kW of the Solar plant.
 - 2.2. In response to query of the Commission as to funding of project,, he submitted that as per the Scheme, the total cost has been apportioned as 5% upfront Registration Charges by beneficiary farmers, share of 30% subsidy by Central Government and share of 30% subsidy by State Government is a part of capital expenditure and is directly made available for solar plant.

Whereas the balance amount of 35% of project cost, is met from the loan taken by the State Government and to be repaid in seven instalments on yearly basis and the amount of instalment of 35% Government loan is met from the amount of EBI with limit of 1000 unit per kW per year of solar plant generation in excess of self-consumption.

2.3. He also submitted that due to lower solar generation during the ownership period of the Respondent, the amount of EBI was not enough to meet with instalment amount of Government loan and the recovery is charged for shortfall amount of instalment from numbers of beneficiary consumers for Government loan amount which is in place of subsidy. He submitted that instalment amount of State Government subsidy does not lie with the consumers.. The shortfall amount against the Government subsidy instalment is recovered by the Respondent and drastic action of disconnection are made for recovery of the same if the generation is not up to limit of EBI. Further, the ownership of the consumer for the solar project begins only after repayment of instalments of 35% loan amount in 7 years from the date of commissioning of the project. Therefore, the criteria and meaning of the subsidy has lost its virtue by such recovery.

3. Ld. Adv. Ms. Shristi Khindaria, appearing on behalf of the Respondents MGVCL and GUVNL, submitted that the Petitioner as an association of consumers of the Respondent No. 1 MGVCL and has filed present Petition in regard to SKY Scheme under GR dated 27.06.2018 as implemented under the Order dated 29.10.2018 of the Commission passed in Petition No. 1729 of 2018. She submitted that the issue involved in the present Petition is billing dispute and prior to approaching the Commission, the Petitioner has already approached the CGRF of MGVCL and CGRF vide its Order decide the matter. Therefore, the present Petition is not maintainable before the Commission as the very same issue is already decided by the CGRF , MGVCL as per provisions of the Electricity Act, 2003. The Petitioner may approach the Electricity Ombudsman if they are not satisfied with the Order of the CGRF as per the

Electricity Act and Regulations notified by the Commission. Therefore, any dispute raised by the consumer has to be before the CGRF and Electricity Ombudsman only and the Commission cannot adjudicate any dispute between a consumer and licensee. Hence, the present Petition is not maintainable before the Commission as issue involved in the matter is already decided by the CGRF, MGVCL.

4. After referring the Para 14 of the Petition as per the Commission's directives and in response to the above contention of the Respondent, the counsel appearing on behalf of the Petitioner has referred to the declaration filed by the Petitioner in the present Petition which stated that the subject matter of the Petition was not raised by the Petitioner before any other competent forum and order has been made and prayers are almost bypassed and no other competent forum has currently seized any of the matter and has not passed any orders in relations thereto. He submitted that the Petitioner had approached the CGRF being the consumer of the licensee, i.e., Respondent No. 1 whereas in the present Petition, the Petitioner approached the Commission as a generating company in terms of Section 2 (28) of the Electricity Act, 2003 and as, there is dispute between the licensee and generating companies and the Commission has jurisdiction to decide the dispute involved in the present Petition. He has agreed to file submissions on the issue of maintainability of the present Petition for which some time has been sought for.
5. Heard the parties. We note that when the matter was called out, nobody was present on behalf of the Respondent No. 3. We note that the Respondents have raised the issue of the maintainability of the present Petition and the counsel for the Petitioner has agreed to file its submissions on issue of the maintainability of the present Petition and sought some time to file the same in the matter. We direct both the parties to file their submissions, if any, on the aspect of maintainability of the present Petition within four weeks' time from the date of this Order, with a copy to each other.

6. Next date of hearing will be intimated separately.
7. Order accordingly.

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

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

**-Sd-
[Anil Mukim]
Chairman**

Place: Gandhinagar.
Date: 28 /01/2025.

