

**BEFORE THE FORUM FOR REDRESSAL OF CONSUMER GRIEVANCES OF
SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED
TIRUPATI**

On this the 30th day of March 2013

C.G.No: 321/2012-13/Guntur Circle

Present

***Sri K. Paul
Sri A.Venugopal
Sri T.Rajeswara Rao
(Vacant)***

***Chairperson
Member (Accounts)
Member (Legal)
Member (Consumer Affairs)***

Between

Sri. Suresh Kumar Kankaria
C/o Suresh Oil Mill and Agro products,
Kankaria Palace,
Peddapuli Street Post,
Lalapet,
Guntur-Dist

Complainant

And

1. Assistant Divisional Engineer/Operation/Rurals-2/Guntur Respondents
2. Divisional Engineer/M & P/Guntur
3. Divisional Engineer/Operation/Rurals/Guntur
4. Senior Accounts Officer/Operation/Guntur

Sri. Suresh Kumar Kankaria, C/o Suresh Oil Mill and Agro products, resident of Kankaria Palace, Peddapuli Street Post, Lalapet, Guntur-Dist herein called the complainant, in his complaint dt:02-02-2013 filed in the Forum on dt:02-02-2013 under clause 5 (7) of APERC regulation 1/2004 read with section 42 (5) of I.E.Act 2003 has stated that

1. He is a consumer with SCNo: GNT 787 under HT at Chinakondrupadu village of Guntur-Dist and the supply is being utilized for manufacture of oil, cake and cattle field at the premises with the title Suresh Oil Mills and Agro Products.

2. For the service above in the bill for December 2012, an amount of Rs.175837 + Rs.236112 was levied as penalty towards off Peak demand and energy charges.
3. The bill above is revised duly correcting the CMD from 160 to 195 KVA and the amount after the said correction was Rs.171462 + Rs.78864.
4. On 29-11-2012, 30-11-2012 and 01-12-2012 he got information from their ADE concerned over phone that power holiday was vacated for cotton ginning and cotton seed oils mills and hence they used power for some hours.
5. They have not utilized power in holidays in the total month after knowing from the ADE that the power holiday is not confirmed.
6. Requested for revision of bill duly deducting the penalty.

Notices were served upon the respondents duly enclosing a copy of complaint.

The respondents-1 and 4 i.e. the Assistant Divisional Engineer/ Operation/ Rurals-2/Guntur and the Senior Accounts Officer/Operation/ Guntur in their combined written submission dt:08-02-2013, received in this office on 15-02-2013 stated that:

1. In the case of HT SC No.GTN787, M/s Suresh Oil Mill and Agro Products, Chinakondrupadu (v), Prathipadu (M), Guntur-Dist, the HT CC.bill for the month of December 2012 was issued based on the data sheet which was prepared by taking the CMD as 160KVA instead of 195KVA due to over sight and the same was now revised as recommended by the ADE/Opn/Rural-I/Guntur.
2. On 21-11-2012 the power holiday starts from 18:00 hrs hence 21-11-2012 was divided to 2 parts while calculating the R&C penalties i.e. upto 18:00 hrs and power holidays from 18:00 hrs to 24:00 Hrs and the consumer

utilized excess power from 22:00 Hrs to 24:00 Hrs. Hence R&C penal values calculated for that day.

3. The exemption of power holiday for cotton seed oils on 29-11-2012, 30-11-2012 and 01-12-2012 was not intimated to consumer over telephone as alleged.
4. Hence the withdrawal for the above days penal charges was not considered.

The respondents-1 and 4 i.e. the Assistant Divisional Engineer/ Operation/ Rurals-2/Guntur and the Senior Accounts Officer/Operation/ Guntur in their further combined written submission dt: 07-03-2013, received in this office on 12-03-2013 stated that:

1. The C.C.bills for the month of November 2012 was revised for an amount of Rs.460.80 against the penalties of Rs.1,24,475/- levied and withdrawal due to Neelam cyclone exemption.
2. The ADE/Opn/R-II/Guntur has recommended for revision of bill for the month of December 2012 also, based on the recommendations the bill has been provisionally revised to an amount of Rs.2,21,749/- against Rs.411949/- levied. The amount will be withdrawn soon after receipt of revised bill from corporate office/Tirupati

Findings of the Forum:

1. The grievance of the complainant comprises of two items, out of which, the first one is that the CC.bill for the month of December 2012 in respect of his HT service (Cotton seed oil mill) was wrongly given by mis-considering the CMD as 160 KVA instead of 195 KVA and levied penalties to that effect and the second one is that he was informed by the ADE/Operation concerned over phone that the power holiday was vacated

for cotton ginning and oil mills from 29-11-2012 to 01-12-2012 according to which they utilized the power without any restrictions and for the balance days they have not utilised power as the power holidays lifting was not confirmed. But the respondents levied penalty without taking into consideration that the power during power holidays was utilized by them only on information from the ADE as was lifted. As such though they are not at fault in utilizing power, they were penalized which is unjust and requested for deduction of the penalties and revision of bills for the said three days.

2. The respondents 1 and 4 reported that
 - i. For the bill of December 2012 in respect of the complainant's service, considering of CMD of 195 KVA instead of 160 KVA while preparing the bill was due to over sight and the same was revised accordingly and intimated to the consumer.
 - ii. For the consumption day of 21-11-2012 the power holiday started by 18:00 hrs onwards and the consumer utilized power excess from 22:00 to 24:00 Hrs and hence penal values were calculated for that day.
 - iii. The consumer was not intimated on the said days 29th and 30th of November and also 1st December 2012 and the allegation of the complainant in this matter is false and hence withdrawal of penal charges for the said days is not considered.
3. It is noticed that there was mis-interpretation of the day definition between the two parties i.e. the complainant and the respondents. The respondents mentioned that the first day of the power holiday starts by 18:00 hrs of the preceding day , but there is no such ruling to that effect

and is contra to the general opinion and moreover there shall be an intimation to the consumers to that effect.

4. The respondents, in respect of the bill for the month of December 2012 in respect of the service, explained that the CMD was mistaken by them as 160 KVA instead of 195 KVA due to over sight and rectified the same by revision of bill as per the recommendations of the ADE, Operation / concerned and intimated the matter to the consumer and thus the first part of the grievance is resolved.
5. In his letter dated 25-01-2013, addressing the respondent-4, the respondent-1, ie the ADE concerned reported that the **power holiday** was observed by the consumer from 00:00 hrs of 22-11-2012 to 00:00 hrs of 25-11-2012 and requested to revise the bill accordingly.
6. From the above, it is understood that the consumer opted for observing **power holiday** for three days in a week, ie Thursday, Friday and Saturday and the day is considered as 00:00 hrs to 24:00 hrs.
7. But the respondents version says that the day starts from 18:00 hrs of 21-11-2012 (Wednesday, the last working day of the week as far as R&C is concerned) , whereas the consumer was under the opinion that he can continue upto 24:00 hrs of the day and utilized power accordingly, instead of stopping by 18:00 hrs. Any how, the consumer reduced his load by 18:00 hrs and again raised by 22:00 hrs and continued up to 24:00 hrs which indicates that he observed the peak load with a view to observe the Power Holiday with effect from 00:00 hrs of the next day which is considered normally.
8. It is not understood whether the consumer was informed by the respondents about the concept of day consideration well in advance.

9. In the matter of considering the CMD for billing, the respondents version is that the consumption day starts by 18:00 hrs of the preceding day, where as the consumer took it as 00:00 hrs of the day and hence utilized power from 22:00 to 24:00 hrs as usual on 21-11-2012. Moreover there is no proof of such advance information to the consumer from the respondents about the said unusual interpretation.
10. ***As such, levy of penalty for the period from 22:00 to 24:00 hrs on 21-11-2012 treating it as in excess and violation of R&C is felt unjust and the respondents are liable to revise the bill for the said period.***
11. A personnel hearing was held at Guntur in this matter on 07-03-2013 for which the complainant expressed his inability to attend in view of some death of his near and only the respondents were present, but however the respondents accepted the contentions of the complainant with regards to the revision of bill for the month of December 2012 and replied on the same in writing.
12. The respondents in their reply dt:07-03-2013 mentioned that the CC.bill for the month of November 2012 was revised for an amount of Rs.460.80 against the penalty of Rs.1,24,475/- levied and withdrawn due to exemption given during Neelam cyclone period. They also mentioned that the bill for the month of December 2012 will also be revised to an amount of RS.2,21,749/- against Rs.4,11,949/- levied and the same will be withdrawn soon after receipt of approval from the corporate office.
13. For the billing made in respect of the service for the three days, from 29-11-2012 to 01-12-2012 under the plea that the consumer violated the R&C measures, the consumer's allegation that he utilized the power

during those days only on information over phone from the ADE that the R&C was lifted is not considered as there is no proof to that effect.

14. As such, the request of the consumer to with draw the penalty levied by the respondents for the said three days is not accepted and hence has to pay.

In view of the above, the Forum passed the following order.

ORDER

The respondents are directed that

1. They shall revise the bills of the complainant for the reasons of Neelam cyclone and the consideration of the day starting time of power holidays, keeping the bills for the three days of 29-11-2012 to 01-12-2012 not revised and issue bills accordingly within 15 days from the date of this order.
2. They shall report compliance on the item-1 of the order above within 22 days from the date of this order.

Accordingly the case is allowed and disposed off

If aggrieved by this order, the complainant may represent to the Vidyut Ombudsman, O/o the APERC, 5th floor, Singarenibhavan, Redhills, Hyderabad-500004, within 30 days from the date of receipt of this order.

Signed on the 30th day of March 2013.

Sd/-
Member (Legal)

Sd/-
Member (Accounts)

Sd/-
Chairperson

Forwarded by Orders

Secretary to the Forum

To
The Complainant
The Respondents
Copy submitted to the Honourable Ombudsman, APERC, 5th floor, Singarenibhavan,
Redhills, Hyderabad-500004.
Copy to the General Manager/CSC/Corporate office/Tirupati for pursuance in this
matter.