

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

On this the 28th day of June 2013

In C.G.No: 363/ 2012-13/ Kadapa Circle

Present

Sri K. Paul
Sri A. Venugopal
Sri T. Rajeswara Rao
Sri A. Sateesh Kumar

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

Between

Sri. A.V.Subba Reddy
C/o M/s Narayanadri Steels Pvt. Ltd.
Venkata Rajampeta Village & Post,
Rajampeta Mandal,
Kadapa-Dist-516115.

Petitioner

And

1. Assistant Divisional Engineer/Operation/Town/Rajampeta Respondents
2. Chief General Manager/Finance/SPDCL/Tirupati
3. Divisional Engineer/Operation/Rajampeta
4. Senior Accounts Officer/Operation/Kadapa

Sri. A.V. Subba Reddy, C/o M/s Narayanadri Steels Pvt. Ltd. resident of Venkata Rajampeta Village & Post, Rajampeta Mandal, Kadapa-Dist-516115 herein called the complainant, in his complaint dt:12-03-2013 filed in the Forum on dt:12-03-2013 under clause 5 (7) of APERC regulation 1/2004 read with section 42 (5) of I.E.Act 2003 has stated that

1. They are consumers of electricity at high tension with service number:168CDP for their industry with the title Narayanadri Steels Private Limited. at Rajampeta of Kadapa Dist.

2. The department had levied FSA for the year 2008-09 which is against the stay orders of the Honourable High Court of AP and the amount of demand along with surcharge on delayed payments is as shown below.

FSA for October 2008	10,95,840
FSA for November 2008	13,12,560
Total	24,08,400

3. In accordance with the revised orders on restriction and control issued by the Honourable APERC in his proceedings dt:01-11-2012 and letter dt:02-11-2012 they are entitled to operate at 20% of CMD of 3800KVA during peak hours being their industry is a continuous process unit, but contra to this from December 2012 they are being levied penal charges on demand and energy in excess of 10% CMD during peak hours which is violation of the orders of honourable APERC.

The amounts of penalties levied upon are as follows:

Month	Excess demand charges	
	Claimed	Allowed
May 2011	351613	350000
December 2011	478750	NIL
January 2012	118250	NIL
February 2012	140000	NIL
March 2012	140000	NIL

4. They have repeatedly represented the matter to the SE/Operation and SAO/ Operation/ Kadapa, but not received any satisfactory reply or appropriate corrective measures from them.
5. Requested to consider their grievance on merits and due appropriate justice

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

The respondent-4 Senior Accounts Officer/Operation/Kadapa in his written submission dt:01-04-2013, received in this office on 01-04-2013 stated that:

1. **FSA 2008-09:-** It is true that the FSA for the year 2008-09 included in the following CC Bills.

FSA October, 2008 Rs.1095840.00 Included in Jan/2011 CC Bill

FSA November, 2008Rs.1312560.00 Included in Feb/2011 CC Bill

Rs.2408400.00

- a. The consumer proceeded to AP High Court in WP NO.3278/11 regarding FSA 2008-09 and the High court dated 14.02.2011 granted interim orders for suspension of APERC Proceedings dt.05.06.2010. After receipt of court order the following FSA amounts are not included in the bills (In the bill stating as FSA pending in Honorable High court

December, 2008 Rs.9,29,880.00

January, 2009 Rs.3,21,516.00

February, 2009 Rs.3,64,644.00

March, 2009 Rs.2,70,216.00

- b. The consumer represented that the FSA for 2008-09 is being demanded to till to date is not correct. As verified from the docket there is no correspondence to pay the FSA amount for the year 2008-09. But the said above FSA amounts already included in the bills before court orders and the same was exhibited in the CC bills under arrears.
- c. Regarding delayed payment surcharge if any billed on FSA amount will be arrived and withdrawn please.

2. Restrictions and Control (R&C) Measures:- The consumer states that they are entitled to operate at 20% of contracted Maximum demand during Peak hours.

The CC Bills for 12/12, and 1/13 as per the statements furnished by the Divisional Engineer / Operation / Rajampet the permitted demand allowed during Peak hours is 10%. the CMD/APSPDCL/TPT in Memo.No.857/12, dt.12.11.2012 permitted to avail supply to the extent of 60% CMD during off peak hours and 10% on CMD during the peak hours in respect of HT SCNO.CDP168, M/s. Narayanadri Steels (copy enclosed). As per revised instructions issued in (copy enclosed) Endt.Lr.No.CMD/APSPDCL/TPT/ DE/T/Peshi/ D.No.144/13, dt.29.01.2013 permitted to PDL of 30% during peak hours for continuous process industries with effect from 22.01.2013

The consumer representation dated 06.11.2012 that the said above service is a continuous processing unit and to run under continuous processing industry i.e. 60% off peak hours and 20% during peak hours. A letter addressed in Lr.No.SE/O/KDP/ADE-T/ D.No.1406/12, dt.06.11.2012 addressed to the Chief Engineer/Zone/ APSPDCL/ Tirupati by enclosing the consumers representation for kind perusal. (Copy enclosed).

The revision of bills for 11/12 and 12/12 are under process. For 11/12 the penal charges are not levied. For 12/12 as per Memo.No.CGM/Fin/D.No.89/13, dt.04.02.2013, the MD charges are to be revised for proportionate. The penal demand charges levied 917000/- was revised to Rs.152833/-. And the difference amount of Rs.764167/- is to be withdrawn in March, 2013 Accounts.

3. Minimum demand charges during the months of May, 2011 and December, 2011 to March, 2012 regarding.

The consumer complaint is in appropriate minimum demand charges levied during May, 2011 and December, 2011 to March, 2012.

As per Retail supply Tariff rates and terms and conditions of supply “the billing demand shall be the maximum demand recorded during the month or 80%“ of the contracted Maximum demand which ever is higher.

Sl.No.	Billing Month	CMD in KVA	RMD in KVA	80% CMD in KVA	Billing Demand in KVA	MD Charges in Rs.
1	May-11	5000	3170	4000	4000	1000000
2	Dec-11	4500	3008	3600	3600	900000
3	Jan-12	4500	3127	3600	3600	900000
4	Feb-12	4500	2698	3600	3600	900000
5	Mar-12	4500	2727	3600	3600	900000

Copy of CC bills for May, 2011 and December, 2011 to March, 2012 are herewith enclosed. As per the Tariff conditions only the Minimum demand charges claimed and the consumer complaint that inappropriate minimum demand charges levied is not correct. Further it is to submit that the amounts mentioned in the complaint not exhibited in the said above bills.

In the last para of the petition the consumer states that inspiteof their repeated representations to the Superintending Engineer and Senior Accounts Officer /Operation /APSPDCL/ Kadapa on the above issues they have not received any satisfactory reply.

In this connection it is to submit that the consumer never represents on FSA 2008-09 and also monthly demand charges levied for minimum for the months May, 2011 and December, 2011 to March, 2012.

But the consumer represents on 12.12.2012 (copy enclosed) regarding excess demand charges in the bill for the months September (Part) and October, 2012. During Restrictions and Control the demand charges are to be billed on the maximum recorded demand only. The consumer replied in the matter vide Lr.No.SE/O/KDP/SAO/JAO/HT/DNo.662/12, Dt.22.11.2002 that the bills for September, 2012 and October, 2012 are issued subject to revision due to Restriction and Control measures. The revision of bills for 9/12 and 10/12 are still under process. It was replied that the MD charges for 9/12 and 10/12 will be revised as per R&C Measures.

The respondent-2 Chief General Manager/Finance/SPDCL/Tirupati in his written submission dt:02-04-2013, received in this office on 02-04-2013 stated that:

1. The consumer attribution regarding FSA for 2008-09 saying that tantamount to contempt of court is not correct since the said amounts of Rs.18,54,360/- has already set aside. Though the FSA amounts are appearing on the bills are arrears, consumers have not been threatened for payment of FSA in view of orders of honourable High Court of AP.
2. Though Honourable APERC has specified the permissible demand and consumption limits in R&C orders, due to lack of sufficient power, APERC's instructions have not been implemented as is. Based on the available supply and demand position, in orders to ensure equitable distribution of power among various class of consumers and also to

protect grid from failures, this office has been issuing instructions to all field officers duly specifying permissible demand and consumption limits in respect various categories of consumers from time to time. The field officers are following these instructions

- 3.** With regards to R&C measures the revision of bills for the month of November and December 2012 are in process for November 2012 penal charges are not levied. The MD charges are to be revised proportionate. The penal demand charges were already revised from Rs.9,17,000/- to Rs.1,52,833/- resultant amount of Rs.7,64,167/- has to be with drawn by the SE/Operation/Kadapa.
- 4.** Regarding minimum demand charges as per retail tariff rates and terms and conditions of supply “the billing demand shall be the maximum demand recorded during the month or 80% of the contracted maximum demand which ever is higher. The demand charges are raised strictly as per the tariff conditions only. The consumer representation is not true and correct.
- 5.** During restriction and control period the demand charges are to billed on maximum recorded demand only. The bills for September 2012 and October 2012 were issued subject to revise, and the same are in process of revision. This fact was already intimated to the consumer by the SE/ Operation/ Kadapa.
- 6.** In view of the above and as such there is no material strength in the grievances of the consumer and the same are not maintainable under any regulation/clause of GTCS it is requested to dismiss and disallow the claim of the consumer.

The Superintending Engineer/Operation/Kadapa though not a respondent in his written submission dt: 01-04-2013, received in this office on 01-04-2013 stated that:

1. **FSA 2008-09:-** It is true that the FSA for the year 2008-09 included in the following CC Bills.

FSA October, 2008	Rs.10,95,840.00	Included in Jan/2011 CC Bill
FSA November, 2008	Rs.13,12,560.00	Included in Feb/2011 CC Bill

	Rs.24,08,400.00	

2. The consumer proceeded to AP High Court in WP NO.3278/11 regarding FSA 2008-09 and the High court dated 14.02.2011 granted interim orders for suspension of APERC Proceedings dt.05.06.2010. After receipt of court order the following FSA amounts are not included in the bills (In the bill stating as FSA pending in Honorable High court)

December, 2008	Rs.9,29,880.00
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3. The consumer represented that FSA 2008-09 is being demanded to till to date is not correct. As verified from the docket there is no correspondence to pay the FSA amount for the year 2008-09. But the said above FSA amounts already included in the bills before court orders and the same was exhibited in the CC bills under arrears.
4. Regarding delayed payment surcharge if any billed on FSA amount will be arrived and withdrawn please.

4. Restrictions and Control (R&C) Measures:- The consumer states that they are entitled to operate at 20% of contracted Maximum demand during Peak hours.

The CC Bills for 12/12, and 1/13 as per the statements furnished by the Divisional Engineer / Operation / Rajampet, the permitted demand allowed during Peak hours is 10%. The CMD/APSPDCL/TPT in Memo.No.857/12, dt.12.11.2012 permitted to avail supply to the extent of 60% CMD during off peak hours and 10% on CMD during the peak hours in respect of HT SCNO.CDP168, M/s. Narayanadri Steels (copy enclosed). As per revised instructions issued in (copy enclosed) Endt.Lr.No.CMD/APSPDCL/TPT/ DE/T/Peshi/ D.No.144/13, dt.29.01.2013 permitted to PDL of 30% during peak hours for continuous process industries with effect from 22.01.2013

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The consumer complaint is in appropriate minimum demand charges levied during May, 2011 and December, 2011 to March, 2012.

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Copy of CC bills for May, 2011 and December, 2011 to March, 2012 are herewith enclosed. As per the Tariff conditions only the Minimum demand charges claimed and the consumer complaint that inappropriate minimum demand charges levied is not correct. Further it is to submit that the amounts mentioned in the complaint not exhibited in the said above bills.

In the last para of the petition the consumer states that inspite of their repeated representations to the Superintending Engineer and Senior Accounts Officer /Operation /APSPDCL/ Kadapa on the above issues they have not received any satisfactory reply.

In this connection it is to submit that the consumer never represents on FSA 2008-09 and also monthly demand charges levied for minimum for the months May, 2011 and December, 2011 to March, 2012.

But the consumer represents on 12.12.2012 (copy enclosed) regarding excess demand charges in the bill for the months September (Part) and October, 2012. During Restrictions and Control the demand charges are to be billed on the maximum recorded demand only. The consumer replied in the matter vide Lr.No.SE/O/KDP/SAO/JAO/HT/DNo.662/12, Dt.22.11.2002 that the bills for September, 2012 and October, 2012 are issued subject to revision due to Restriction and Control measures. The revision of bills for 9/12 and 10/12 are still under process. It was replied that the MD charges for 9/12 and 10/12 will be revised as per R&C Measures.

Findings of the Forum:

1. The grievance of the complainant comprises of two items out of which the first one is challenging the levy of FSA for the year 2008-09 included in the bills of January and February 2011 for which the matter was pending the honourable High Court of AP which granted an interim order suspending the proceedings dt:05-06-2010 of the Honourable APERC.
2. The second part of the complainant is levy of penalties during the R&C period taking 10% of CMD during peak hours where as they are entitled for 20% of the CMD which is also a violation of the orders of honourable APERC.
3. The respondent 2 i.e. the CGM/Finance/APSPDCL/Tirupati

- i. With regards to levy of FSA for the financial year 2008-09 reported that the said amount of FSA Rs.18,54,360/- is already set aside in the view of collection, but are appearing in the CC.bills as arrears and there is no threat of disconnection and demand of payment of the said FSA amount and hence the contention of the complainant that they are at contempt of court is not correct.
 - ii. With regards to the R&C measures the revision of bills for the months of November and December 2012, no penal charges were levied for November 2012 and December 2012 the bill revision is in process by the respondent-4 i.e. the Senior Accounts Officer/Operation/Kadapa and an amount of Rs.7,64,167/- has to be withdrawn from the demanded amount of Rs.9,17,000/-.
 - iii. The bills for September and October 2012 were issued subjective revision and the same are in process of revision. The fact was already intimated to the consumer by the SE/Opn/Kadapa.
4. In accordance with the Guaranteed Standards of Performance consumer bills are to be rectified within 7 working days from the date of receipt of the complaint, but where as in this case the complainant represented the respondent-4 on 15-11-2012, but it is not rectified even as on the date of the complaint i.e. 11-03-2013. There is a clear delay of 118 days in bill revision for which the respondents are liable to compensate the complainant @ Rs.25/- for each day of delay and the amount is Rs.2,950/-
 5. Since the matter with regards to levy of FSA for the financial year 2008-09 is pending in the Hon'ble High Court of Andhra Pradesh, the respondents shall not insist for payment till the matter is settled, but

there is nothing wrong in displaying the said amount in the CC.bills against arrears.

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

ORDER

1. The subject on levy of FSA is pending in Court and hence this Forum cannot pass any orders. The consumer is advised to approach the Honourable High Court of Andhra Pradesh to resolve his problem.
2. The respondents are directed to implement the orders of the APERC from time to time and allow the consumer to operate his unit within the limits of APERC orders with regards to R&C. Excess billed charges if any shall be withdrawn.
3. There is no clarity regarding in appropriate minimum demand charges for the months of May 2011 and December 2011 to March 2012. However the respondents are directed to bill minimum charges as per tariff order during non R&C periods and during R&C period. Bills shall be issued as per R&C orders of APERC from time to time.

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 28th day of June 2013.

Sd/-
Member (Legal)

Sd/-
Member (C.A)

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.