

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

This is the 17th day of May 2013

C.G.No:366/2012-13/Ongole 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.Mallikharjuna Rao
Motupalli Village & Post
Chinnaganjam Mandal
Prakasam-Dist-523168

Complainant

And

1. Junior Accounts Officer/SUB-ERO/Vetapalem
2. Assistant Engineer/Operation/Chinnaganjam
3. Assistant Divisional Engineer/Operation/Vetapalem
4. Senior Accounts Officer/Operation/Ongole

Respondents

Sri. A.Mallikharjuna Rao, resident of Motupalli Village & Post, Chinnaganjam Mandal, Prakasam-Dist-523168 herein called the complainant, in his complaint dt:20-03-2013 filed in the Forum on dt:28-03-2013 under clause 5 (7) of APERC regulation 1/2004 read with section 42 (5) of I.E.Act 2003 had stated that

1. He is a consumer with SCNo:319 of Motupalli distribution, Chinnaganjam section, Prakasam-Dist and the supply is being utilized for
2. He received a letter from the JAO/Sub-ERO/Vetapalem on 20-03-2013 while he was at his farm and was shocked after reading the contents wherein it was accused that the R&C measures are violated by him and the penalty was imposed for violating certain guide lines mentioned. But he had no prior knowledge of existence of such guide lines and he was never informed of the

changes in the guide lines by the electricity department.

3. His usage of power is only as per the guide lines made aware to him and he cannot agree that he had violated any guidelines.
4. The said letter received by him on 20-03-2013 was dated 13-03-2013 and he was allowed 15 days time for payment of the said penalty lest his service will be disconnected.
5. The R&C guidelines mentioned in the notice were of September 2012 and there was no effort from the department to inform the consumers and none including himself of the area are aware of the said guidelines and issuance of number of notices in and around are the best proof of the above as such the said penalty is not justified.
6. Requested for stay on the notice and remove the penalty imposed besides directing the electricity department to communicate the R&C guide lines from time to time as soon as possible so as to enable their adherence

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

The respondent-3 i.e. the Assistant Divisional Engineer/Operation/ Vetapalem in his written submission dt: 26-04-2013, received in this office on dt:30-04-2013 stated that:

1. The SCNo:319 of Motupalli is having a contracted load of 35HP under category-III in the name of Sri A. Mallikarjuna Rao the service is utilized for aqua culture purpose.
2. The APERC has given R&C measures for HT & LT SC's vide letter dt:25-09-2012 and 08-11-2012 due to power shortage. The AE, Operation, Chinnaganjam has given a letter to consumer vide letter dt:08-11-2012 regarding R&C measures and the penal charges for violation of R&C measures.

3. The consumer PDL is 35HP where as the recorded MD is 50.9 in the month of 10/2012 billed in 11/2012 (sanctioned MD is 35 only). The consumer is permitted consumption limit is 14910 units where as the recorded consumption is 21338 units for exceeding PDL and PCL the consumer levied a penalty of Rs.65,605/-
4. The penal charges were communicated to the consumer in the month of 03/13 vide letter dt:13-03-2013.

Findings of the Forum:

1. The grievance of the complainant is that the department without any prior intimation about R&C measures have levied penalty to his industrial service that he had violated and was threatened of disconnection of his service if the said amount is not paid with in 15 days. Requested to direct the department to intimate the guidelines in R&C from time to time as soon as possible besides ordering for removal of the penalty imposed as it is against the law and unjust.
2. Though the complainant mentioned that he enclosed the copy of the notice, but it is not done so.
3. The respondents mentioned that
 - i. The said service is of 35HP contracted load under category-III being utilized for aqua culture purpose.
 - ii. The APSPDCL in its memo numbers 613 and 777 dt:25-09-2012 and 08-11-2012 and the same were given to the consumer by the AE/Operation/ Chinnaganjam.
 - iii. The consumer PDL (sanctioned Load) is 35HP, where as the recorded MD 50.9 KVA in the month of 10/12 billed 11/12.
 - iv. The consumer permitted consumption limit is 14,910 units where as

the recorded consumption is 21,338 units.

- v. For exceeding PDL and PCL, the consumer was levied a penalty of Rs.65,605/-
 - vi. The penal charges were communicated to the consumer in the month of 03/13.
4. It was charged that the consumer exceeded the contracted load of 35HP by utilizing 50.9 KVA and also the consumption limit of 14,910 units by utilizing 21,338 units in the month of 10/2012 billed in 11/2012.
 5. But the procedure by which the said amount of RS.65,605/- levied penalty was arrived is not mentioned.
 6. Normally, in any case if any additional load is noticed in a service, a one month notice shall be served upon the consumer to get the additional load regularized or to remove if not necessary and upon compliance of the consumer a second inspection is to be conducted for ensuring the facts.
 7. But here in this case, because of shortage of power in the grid, the hon'ble APERC had approved and communicated to the licensees certain restrictions on usage of power by the consumers of different categories and the penalties to be levied on such consumers violates the orders and crosses the limits. It is the responsibility of the respondents to intimate the consumers about the said changes in permitted limits of usage of power and the resultant billing from time to time, well in advance to enable the consumers to adhere and cooperate with the licensee.
 8. The prime motive of imposing penalty for violation of R&C is to put impact on the trespassers to be within the limits of quota thereby safeguarding the grid, but not to mint money. As such, the licensee's officers shall act instantly upon the guide lines issued from time to time in this regard and see that the

same are reached each and every consumer affected well in advance for strict adherence. They are bound to create awareness in the consumers and see that the usage is within limits. Without doing so, blaming and penalizing the consumers is against law and natural justice.

9. Here in this case, though the respondents mentioned that the R&C measures were communicated to the consumer through Memo of the head quarters dt:08-11-2012, but they could not produce any evidence of the form of acknowledgment from the consumer but simply sent an unsigned copy of the notice in semi-printed format and hence cannot be taken into consideration.
10. As such it is felt that the levy of penalty to the consumer for no fault of him is unjust, but however, since it is a violation of the proceedings of the honourable APERC in the matter of R&C, the respondents have to shoulder the responsibility and pay the said amount of penal charges at their own for their inaction.
11. The licensee shall not sustain loss of the said amount and the same is to be made good by the erring officers/officer who failed to discharge his legitimate duties.
12. The respondents shall remit the said amount of Rs.65,650/- and any surcharge levied thereupon to the consumer's service account.

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

ORDER

The respondents are directed that they

1. Shall remit the said amount of penalty Rs.65,605/- to the consumer account within 15 days from the date of this order.
2. Shall not disconnect the said service on account of non payment of the above said disputed amount.

3. Report compliance on the item-1 above of the order to the Forum with production of relevant proof of such receipt within 21 days from the date of this order.
4. Shall intimate the consumers from time to time soon on receipt of instructions with regards to the usage that is to be followed by the consumers and the consequences for non adherence and obtain the dated acknowledgements and preserve the same for future needs.

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 this the 17th day of May 2013.

Sd/- Member (Legal)	Sd/- Member (C.A)	Sd/- Member (Accounts)	Sd/- Chairperson
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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.