

**BEFORE THE FORUM**  
**FOR REDRESSAL OF CONSUMER GRIEVANCES**  
**IN SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED TIRUPATI**  
**On this the 19<sup>th</sup> day of March 2019**  
**In C.G.No:356 / 2016-17/Vijayawada Circle**

Present

**Sri. A. Jagadeesh Chandra Rao**  
**Sri. A. Sreenivasulu Reddy**  
**Sri. D. Subba Rao**  
**Sri. Dr. R. Surendra Kumar**

**Chairperson**  
**Member (Finance)**  
**Member (Technical)**  
**Independent Member**

Between

M/s. Mohan Spintex India Ltd.,  
#48-12-17,  
Near ESI Bus stop,  
Eluru Road,  
Gunadala,  
Vijayawada,  
Krishna - Dist

Complainant

AND

1. Chief General Manager/O/TPT  
2. Chief General Manager/R&IA/Tirupati  
3. Senior Accounts Officer/Vijayawada  
4. Superintending Engineer/O/Vijayawada  
5. CE/Zone/VJA

Respondents

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1. Complainant presented the complaint stating that AP Transco has accorded permission to execute the work of its 132 KV Sub Station and dedicated line to its unit from 132 KV substation, Ranganagudem on turnkey basis under supervision of AP Transco. They have made necessary payment of Rs. 42,80,000/- on 22.08.2016 and the work is under progress by Transco approved contractor. In view of the urgency to bring the installed additional capacities into production they have requested the Licensee to sanction the additional CMD. They have also requested for additional CMD of 1500 KVA over and above the existing CMD of 5000 KVA totaling to a CMD of 6500 KVA at 33 KV potential under SC. No. VJA-3637 on the existing line by waiver of voltage surcharge for a period of 5 months. Licensee accorded for release of additional CMD of 1500 KVA over and above the existing CMD of 5000 KVA. They have presumed that the approval is without voltage surcharge. But surprisingly they have received HT bill for the month of

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**DATE 26/3**

C.G.No:356/2016-17/Vijayawada Circle

December'2016 wherein the Licensee has charged a sum of Rs. 26,91,296.39 towards low voltage surcharge. When they approached the Licensee, they were directed to pay the low voltage surcharge. Hence the present complaint is filed for waiver of low voltage surcharge for a period of 5 months on the ground that they have already requested the Licensee to provide additional load duly waiving low voltage surcharge.

2. CGM/O/TPT filed written submissions admitting that the Complainant requested for additional CMD of 1500 KVA over and the above the existing CMD of 5000 KVA at 33 KV potential under Sc. No. VJA-3637 on the existing line duly waiving voltage surcharge for a period of 5 months. Sanction was accorded without considering the waiver of voltage surcharge. Presumption of approval for sanction of additional CMD without voltage surcharge is not at all correct. Complainant is a reputed HT consumer having several HT services is aware of levying voltage surcharge in case of usage of additional load beyond 5000 KVA. Consumer is liable to pay voltage surcharge as levied in the bills.
3. a) SE/O and SAO/O/ Vijayawada filed written statements stating that supply was extended to the Complainant from 132/33 KV Sub-Station, Ranganagudem through 33 KV Mohan Spintex feeder which is not a dedicated feeder with 5000 KVA in phased manner on 18.02.2014 (date of supply was amended as 18.02.2014 from 18.12.2014). There after Complainant requested to extend supply to an additional CMD of 1500 KVA over and above the existing CMD of 5000 KVA. The consumer was intimated orally about extension of additional CMD over and above 5000 KVA through mixed feeder at 33 KV will attract voltage surcharge. Consumer also purchased ARR proposals for retail supply business for financial year 2017-18 which shows that the Complainant is having good knowledge and aware about the tariff orders issued by the Hon'ble APERC from time to time. The bill was issued levying voltage surcharge as per Tariff Order. The contention of the consumer that it presumed that the approval was without voltage surcharge is not correct.
- b) They have also submitted additional written submissions stating that Superintending Engineer has orally intimated to the representative of the Complainant that release of additional CMD on common feeder will attract voltage surcharge. There after representative of the consumer again approached the office after filing the application for sanction of additional load on existing

network. The application along with estimate was submitted to Chief Engineer/Zone/Vijayawada. Consumer has submitted a letter directly requesting for waiver of voltage surcharge for 5 months to CE/Zone/Vijayawada by submitting the copy to the office of SE/O/VJA. CE/Zone/VJA submitted the estimate along with consumer representation to CGM/O/TPT. CGM/O/TPT accorded sanction wherein there was no specific mention of waiver of voltage surcharge. The additional CMD of 1500 KVA has been sanctioned as per regulations of Hon'ble APERC. Hence waiver of voltage surcharge was not considered. The fact of levy of voltage surcharge was also explained to the consumer while executing the agreement on 08.12.2016.

4. CGM/R&IA/TPT filed written submissions stating that voltage surcharge was levied as per the provisions of Tariff Order issued by Hon'ble APERC. There is no provision for according sanction/billing the consumer without voltage surcharge.
5. CE/Zone/Vijayawada filed written submissions stating that consumer has not mentioned about voltage surcharge in its representation dated: 31.10.2016. When the consumer approached him, he orally informed about levying of voltage surcharge for the extra demand over and above 5000 KVA if supply is availed on a common feeder as per Tariff orders and the copy of relevant page in the tariff order issued by Hon'ble APERC was shown. The contention of the consumer that they presumed that the approval is without voltage surcharge is not correct.

This Forum after due inquiry dismissed the complaint. Aggrieved by the order of dismissal of the complaint the complainant herein preferred a representation before the Hon'ble Vidhyut ombudsman, the Hon'ble Ombudsman set aside the order of the forum and remitted the case for fresh disposal.

After the orders of vidyut ombudsman a notice was issued to both parties to file additional pleadings if any. The complainant did not choose to file any additional pleadings. But Respondents No.1 and 2 and Respondent No.3 jointly filed written submissions. The sum and substance of both the submissions are one and the same.

The Respondents contended that complainant obtained permission from AP Transco for erection of their own 132 KV Substation and connected lines from 132 KV Rangannadudem SS. Complainant could not complete his 132 KV line. Hence he applied for additional load requirement. Consumer was orally intimated about extension of add CMD over and above 5000 KVA through a mixed feeder at 33 KV potential will attract

voltage surcharge. Consumer also entered into revised agreement. In which the complainant agreed to pay all the prescribed charges as per GTCS. The tariff order approved by Hon'ble APERC for 2016-17 clearly shows that voltage surcharge is liable to be paid by the consumers who utilize supply on common feeders. The tariff order will be issued by the APERC after conducting sufficient public hearings which cannot be altered in individual cases unilaterally by any official of the Licensee.

Again a personal hearing was conducted .Both parties reiterated their versions. Both parties did not choose to file their evidence through affidavit and to mark any documents as an exhibit.

The point for determination is whether the complainant is liable to pay voltage surcharge for the period of 5 months from the date of entering into agreement?

Para 12.7 of Reg.03/2016 provides that subject to the specific provision of this regulation, the forum shall be guided by the principles of justice, equity and good conscience and may regulate its own procedure accordingly.

This Forum could not insist the parties to produce oral evidence. Most of the consumers except one or two will approach the forum for redressal of the grievance as early as possible. Most of them are layman they may not able to file their evidence by way of affidavit incorporating the necessary points attacking the pleas taken by the Respondents in their counters. They may also not able to cross examine the officers of the Respondent, who are well educated and well versed in their fields. If both the parties are allowed to submit their oral evidence they have to be given an opportunity to cross examine the other party and their witnesses. Then it will become a mini trial and the case could not be disposed expeditiously within 60 days as contemplated in para 13.3 of Reg. No./2016. So all the members of the forum thought that the complaints shall be resolved after submission of their pleading by giving an opportunity of oral hearing except in cases where the forum feels that the parties have to be given an opportunity to produce their oral evidence and if necessary to mark the documents as exhibits. In this case complainant did not request to permit it adduce the oral evidence. We are of the view that the provisions of Civil Procedure Code and Evidence Act are not applicable to this Forum.

In this case as the complainant itself admitted that there is no specific clause in the agreement in respect of waiver of voltage surcharge for a period of 5 months So, we have not got marked the agreement as an exhibit.

The contention of the complainant is that it has submitted a letter to CE/Zone/VJA for waiver of voltage surcharge for a period of 5 months, subsequent to its application requesting for additional CMD of 1500 KVA over and above the existing CMD of 5000 KVA. So the complainant is aware of the existing provisions of levying voltage surcharge when it is availing supply through common feeder. For that reason only though initially they have not sought for exemption from levying voltage surcharge in their application, they have submitted another additional application for waiver of voltage surcharge through CE/Zone/VJA. According to Respondent No. 5 when the employees of the complainant approached him with that application he orally informed about the provisions of GTCS and also shown the copy of it. The point whether Respondent No.5 orally informed and supplied the copy of GTCS could not be proved by any oral evidence. So also the fact whether Respondent No.5 informed the same or not need not be considered by this forum as the complainant itself admitted submission of letter for waiver of voltage surcharge before entering into agreement. So it clearly shows that the complainant is aware of the specific provision of levying of voltage surcharge when supply is availed through common feeder for over and above 5000 KVA

Complainant though aware of levying of voltage surcharge had entered into agreement for additional load. Complainant is having 5 HT services at different locations. Had the complainant had any slightest doubt whether its application for waiver of voltage surcharge was considered or not it ought not to have entered into agreement without ascertaining from the concerned officers. After entering into agreement knowing fully well that there was no specific order of waiver of voltage surcharge, it cannot turn around and say that it has signed in the agreement presuming that its application for waiver of voltage surcharge was considered. Licensee has to collect charges as per the tariff order issued from time to time by the Hon'ble APERC. Licensee is not entitled to collect different charges from different persons of the same category. Keeping this fact only in mind, the Forum opined that licensee has no power for waiver of voltage surcharge unilaterally for a particular industry without prior sanction or approval of the Hon'ble Commission.

The Forum is only competent to intervene when there is a deficiency of service or failure to perform a duty under the Act or rules or regulations or the orders of the Hon'ble commission issued from time to time. The tariff order for the year 2016-17 provides levy of voltage surcharge for the HT consumers availing supply through common feeders as

provided in para 6.2 in part (b) of terms and condition for tariff year for the year 16-17 issued by the commission at page no.253. Respondents issued bill on the complainant for payment of voltage surcharge basing on the above tariff order. The plea of the complainant does not fall under the definition of grievance as mentioned in para 2.7 of Regulation No.3 of 2016. The forum is not competent to direct the licensee to waive voltage surcharge for a period of 5 months in the year 2016-17 which is against the tariff order issued by the Hon'ble APERC. The forum is not competent to entertain this type of complaints which are against to the orders issued by the Hon'ble APERC.

The Hon'ble APERC issued orders vide proceedings No. APERC/Secy /26/2018, Dt:09.10.2018. But is only prospective but not retrospective. So we are of the opinion that the above orders will not also will help the case of the complainant.

In view of the above reasons the complaint is devoid of merits and liable to be dismissed.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh, Flat No:401, 4<sup>th</sup> Floor, Ashoka Chambers, Opposite to MLA Quarters, Adarsh Nagar,Hyderabad-500063**, within 30 days from the date of receipt of this order.

This order is passed on this, the day of 19<sup>th</sup> March 2019.

Sd/-    Sd/-    Sd/-    Sd/-  
**Member (Finance)      Member (Technical)      Independent Member      Chairperson**

**Forwarded By Orders**



**Secretary to the Forum**

To

The Complainant

The Respondents

Copy to the General Manager/CSC/Corporate Office/ Tirupati for pursuance in this matter.

Copy to the Nodal Officer (Executive Director/Operation)/CGRF/APSPDCL/TPT.

Copy Submitted to the Vidyut Ombudsman, Andhra Pradesh ,Flat No:401 ,4<sup>th</sup> Floor, Ashoka Chambers, Opposite to MLA Quarters , Adarsh Nagar,Hyderabad-500063.

Copy Submitted to the Secretary, APERC,11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad- 500 004.