

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

On this the 29th day of May 2018

In C.G. No: 186/2017-18/Kurnool 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

Sri. C. Veeramani,
7/2/7/21,
Nehru Nagar,
Vijaya Talkies Road,
Dhone,
Kurnool Dt.

Complainant

AND

1. Assistant Accounts Officer/ERO/Dhone
2. Assistant Engineer/O/ Dhone
3. Assistant Divisional Engineer/O/Dhone
4. Divisional Engineer/O/Dhone

Respondents

ORDER

1. Sri. C. Veeramani resident of D.No.7/2/7/21 Nehru Nagar Opposite to Vijaya Talkies, Dhone Kurnool Dt. presented a complaint before this Forum in person on 25.10.17 and the same was registered as C.G.No.186/2017-18 of Kurnool Circle.
2. The complainant in his complaint has informed that during the year 2012-13 he has started a factory of associated minerals with a contracted load of 100 HP under LT Category – III and further extended the load by additional 23 HP. The complainant has approached the authorities and requested to change the contracted load from 100 HP to 123 HP. But the Respondents have not taken any steps and let the contracted load as 100 HP. On 25.06.2015 the ADE/DPE inspected the factory and found that bills are being issued under connected load of 123 HP but there is no change in the meter. On 03.07.2015 the Respondent No.3 has issued a notice for payment of additional load charges for 23 HP amounting to Rs. 32,050/- towards development charges and security charges. vide D.No.2506/15 dt : 03.7.2015.
3. On 12.10.15 the complainant has paid an amount of Rs. 32,050/- as per the notice issued by the Respondent No.3. In spite of his repeated approaches to the department people to change the contracted load from 100 HP to 123 HP under HT Category-I, no

C.G.No.186/2017-18_Kurnool Circle

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positive action has been taken by the Respondents to effect the change from LT to HT. Afterwards the Respondents have asked him to get the CEIG approval from the electrical inspectorate. During the year 2016 the policy matter of obtaining CEIG approvals has been abolished by the Government. Hence providing of CEIG approval for effecting the change is not applicable in this case. Even after this though he has regularly approached the respondents to convert his industrial service from LT Category -III to HT Cat -I, the same has not been affected. On 08.11.16 he has noticed that his monthly power bills are being issued under HT Category -I with a contracted load of 123 HP. Though he has paid the development charges and security deposit amounting to Rs.32,050/- on 07.2.17 the vigilance officers inspected the factory and noticed that bills are being issued under LT Category-III instead of HT Cat -I. The officers advised him to change the service connection from LT Cat -III to HT Cat -I immediately. The complainant has also raised as to issuing of CC bill for Rs.7,26,769/- including penalty of Rs.4,95,797/- inspite of paying development charges. He has also informed that he has paid the penalty amount of regular CC bills under fixed charges and hence issue of penal bills for Rs.4,95,797/- is unjust. Finally he has prayed to withdraw the penalty amount from the bill and requested to issue correct bills.

4. The Respondent No.3 in his written submission has elucidated that ISC No. 8222201016784 is having a contracted load of 100 HP as on 25.6.2015 as per the office records. On 25.6.2017 ADE/DPE 3 has inspected the service and noticed connected load of the service as 122.74 HP and thus booked development charges case for additional load of 23 HP. The complainant has paid the development charges and security deposit on 12.10.15 and the same was regularised during 10/2016. Since the contracted load was above 100 HP the complainant has to register HT application for change of category from LT Cat -III to HT Cat -I. After repeated requests the complainant has registered an application for conversion from LT to HT on 21.04.2017. Based on the complainant's representation the proposal for conversion of the service was submitted to Respondent No.4 on 23.4.2017. The Respondent No.4 inturn has submitted proposals to the SE/O/Kurnool on 16.05.17 and sanction was accorded. Meanwhile the ADE/DPE-II/TPT inspected the service connection on 07.2.2017 and booked a short billing case for Rs.4,95,797/- since the contracted load is 123 HP but the service is being billed under LT Cat -III instead of HT Cat -I. The Respondent further reiterated that the assessed amount is not a penalty amount but short billing amount and hence the same cannot be withdrawn.
5. No other respondents filed their written submissions.

6. A personal hearing was conducted on 17.4.2018 at the Forum office for which the complainant and the Respondents No. 2 and 4 were attended.
7. Heard both the parties.
8. The point for determination is whether the Respondents are entitled to collect the short billing amount as per the assessment notice issued by ADE/DPE-II/TPT?
9. In accordance with the amended Clause No. 12.3.3.2 (iii) of GTCS, as approved by the Hon'ble commission, the rule position in case of additional connected load is detected, LT services where the total connected load is above 75 HP or 56 KW is as follows :

One month notice shall be given to regularise the additional connected load or part of additional load as per the requirement of the consumer or to remove the additional connected load. If the consumer desires to continue with the additional connected load, he shall pay the required service line charges, development charges and consumption deposit required for conversion of LT service into LT - III (B) or HT service depending upon the connected load. However if the consumer opts to remove the additional connected load and if the additional load is found connected during subsequent inspection, penal provisions shall be invoked as per the rules in vogue.
10. In accordance with the specific conditions of LT tariff as notified by the Hon'ble APERC in tariff orders 2013-14 and 2015-16 vide page No.163 Para 3 Sub Para IV of LT-III Industrial category, "If the recorded demand of any service connection under this category exceeds the 75 KVA (1 KVA = 1KW), such excess demand shall be billed @ demand charge prescribed under HT Category I (11 KV Supply)".
11. As per the provisions contained in Clause No. 9.1.2 of GTCS the inspecting officer shall record the observations made at the time of inspection by preparing the inspection report as per the format prescribed in appendix IV (A) for LT consumers.
12. In accordance with the list of appendices to the GTCS as approved by the Hon'ble APERC the LT inspection report shall be as per the format prescribed in appendix IV (A). The connected load of the service connection shall invariably be entered in the following proforma:

S. No	Location	Type of Application	Wattage	Number	Total Load
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But as could be seen from the LT inspection report of the complainant's service by ADE/DPE - II, (as downloaded from the MATS application) the total connected load was recorded as 91565 watts instead of apparatus wise connected load. The remarks passed by the inspecting officer in his observations made is as follows:

"It is found that the recorded MD in meter display is 91.574 KVA (122.74 HP) whereas contracted load is 100 HP only".

The Hon'ble High Court vide W.P. No 13877 of 2008 in M/s. Jayalakshmi Ice factory and EPDCL held that demanding regularisation of the additional load based on the MD recording of the meter without physical inspection to note the manufacturer's rating on the apparatus is, therefore, held unsustainable and the same is accordingly set aside.

The Hon'ble Vidyut Ombudsman in Appeal No.13/2010 dt : 22.06.2010 had also issued orders on the above said similar lines.

13. In the instant case the assessment notice for payment of Rs. 4, 95,797/- was issued based on the inspection report of ADE/DPE - II. Since the inspection report itself is defective one as the same was not in accordance with the Appendix IV(A) of GTCS, the assessment made on such inspection is not maintainable in the light of judgment of the Hon'ble High Court vide W.P. No 13877 of 2008.
14. This is also pertinent to point out that the Respondent No.3 in his notice for development charges issued on 03.07.2015 has requested the complainant to regularise the additional load of 22.74 HP totalling to 122.74129 HP by payment of development charges of Rs.20,400/-, security deposit Rs. 11,500/-, application charges Rs. 50/- and supervision charges Rs.100/- totalling to Rs.32,050/- . Accordingly the complainant has paid the amount on 12.10.2015. Since the complainant has paid the amount as per the demand notice, it is the legitimate duty of the Respondents to regularise the additional load by converting the service from LT Cat-III to HT Cat -I.
15. As could be seen from the account statement of the said service connection it is observed that the respondents have generated bills for the service connection in accordance with the tariff condition and also billed excess of MD over 75 KVA under HT Cat-I (11 KV Supply) and hence the complainant has already paid the bills as per the tariff order. Hence the assessment made by the respondents for an amount of Rs.4,95,797/- is not tenable and against the tariff order issued by the Hon'ble APERC.

16. In result the Respondents are directed to withdraw the arbitrarily assessed amount of Rs.4,95,797/- together with the belated payment surcharge levied on such assessment amount within 15 days from the date of receipt of this order and compliance report within 15 days thereafter. The Respondents are also further directed to regularise the additional load amount paid by the complainant duly converting the service from LT Cat –III to HT Cat –I duly following the procedure as per rules. Accordingly the case is disposed off in favour of Complainant.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh, Flat No:401, 4th 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 29th day of May 2018.

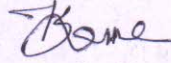
Sd/-
Member (Finance)

Sd/-
Member (Technical)

Sd/-
Independent Member

Sd/-
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 (Chief General Manager/Operation)/CGRF/APSPDCL/TPT

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

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

ESPATCHED
DATE