

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

On this the 07th day of August 2018
C.G. No.323/ 2017-18/Tirupati 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. G. Munirahtnam
C/o Sri Ajanthy Foods
D.No:2-1-122/79
T.R.Kandriga, M.Kothur Post
Nagari -517590
Chittoor – Dist

Complainant

AND

1. CGM/RAC/APSPDCL/ Tirupati

Respondent

ORDER

1. The present complaint is filed to give directions to the Licensee for refund of cost of the plant of Rs.1,91,010/- and also to declare that the line belongs to the complainant. The case of the complainant is that as per the provisions of Sec.43 (2) of Electricity Act 2003 it is the duty of every DISCOM to provide, if required, electric plant or electric line for giving electric supply.

According to Sec.46 the state commission may authorize DISCOM to charge the expenses reasonably incurred in providing electric line or plant.

Reasonability is not defined or details have not provided in the Act. Therefore the Licensee has taken advantage of this fact and started to collect miscellaneous and fictitious charges. (1) Service Cost 2) 3% of S& H charges 3) Contingencies 3% (4) Establishment and general charges 10% (5) Incidental charges 14.10 % etc...The Licensee is not reviewing with the actual cost after work is completed and not refunding the excess amount recovered from the consumer.

Para 2 (f) of Regulation No .04/2013 authorizes the DISCOM to collect charges of Line/Equipment if it is a dedicated feeder. But the complainant's service is not a dedicated feeder, so also Para 3 of Regulation.04/2013 provides to collect service line charges and development charges pertaining to EHT (Extra High Tension). Their service is not EHT service and does not require for installation of EHT substation.

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DESPATCHED

DATE

10/8/18

According to Para 7 (2) of Regulation No.04/2013 the cost of equipment is not to be recovered from the customer when the monthly meter rent is collected.

Sub Para's (2) and (3) of Para 6 in Regulation.04/2013 authorized the DISCOM to recover the expenses reasonably incurred to provide the electric line. It did not say to recover the cost of plant or equipment from the consumer.

In view of the above said provision the cost of equipment of Rs.1,91,010/- is to be refunded with interest.

Licensee is also collecting the cost of dismantlement of line/equipment and cost of transport to their store when the factory is closed down permanently within one to two years. Licensee was not authorized by any provisions of the Act to collect amount for dismantlement. Sec.61 of the Electricity Act provides that Licensee is supposed to function on commercial principles. Licensee is doing business using the consumer's lines. Licensee is bound to maintain those lines as the Licensee is doing business. This Forum has power to restrain Licensee from abusing their dominant position under Section.60 of the Electricity Act, 2003.

2. Respondents filed written submission stating that they are collecting charges as per Regulation No. 04/2013 as notified by the Hon'ble APERC. Sec.46 of the Electricity Act empowers the Hon'ble APERC to issue regulations authorizing the distribution licensee to collect charges from the persons who require power supply.

According to Para.7(1), in case of applications for new connections, where such supply requires extension of line from the existing distribution main to the consumer's premises, the distribution/transmission Licensee shall estimate cost of service line excluding the cost of terminal and metering arrangements at the premises of the consumer. The distribution/transmission Licensee shall estimate the cost of line as per the latest cost data based on the actual survey and line length. The distribution/transmission Licensee shall commence the works after receipt of estimated charges from the applicant.

As per Para 7(2) it shall be the duty of every Distribution Licensee to provide electric meter for giving electric supply to a consumer. Either the Licensee or the consumer can bear the cost of meter and allied equipment. If the Licensee bears such cost, it may collect meter rent as per the charges approved by the commission under Sec.45 of the Act. Alternatively the Licensee may require the consumer to bear the full cost of the meter and allied equipment and in such a case the Licensee is not entitled to collect meter rent.

In view of the above Para 7 of Regulation No.04/2013, consumer seeking electric supply through an extension from existing line has to pay charges specified above. The complainant was

extended supply from 11 KV industrial feeder emanating from 33/11 KV Mittakandriga SS. Hence he is liable to pay service line charges of Rs.42, 980/- and cubicle charges (Meter and allied equipment) of Rs. 1,91,010/-.

S&H charges are essential to store the materials safely. Contingencies are the incidental expenses incurred for giving supply. Establishment and general charges are the administrative and supervision costs incurred to execute the work. Service-tax and BW welfare cess are the taxes to be paid to the Government as per the Acts in force. The meter rent is not being collected from the consumer.

The collection of service line charges and cubicle charges were allowed as per the provisions of Para 7 (1) & (2) of Regulation No. 04/2013 as notified by the Hon'ble APERC under Sec.46 of the Electricity Act 2003.

3. At first instance this Forum rejected the complaint on the ground that the Forum is only meant for resolving the grievances of the consumers who suffered because of actions or in - actions by the employees of the Licensee and the points raised by the complainant does not fall within the purview of the Forum.
4. Aggrieved by the orders of this Forum, the complainant approached the Hon'ble Vidhyut Ombudsman vide Appeal No.53/2017, the Hon'ble Vidhyut Ombudsman allowed the appeal stating that the order of the Forum does not disclose as per the provision of law under which it is rejected and the orders of the Forum does not disclose that it complied with the provisions of Para 10 (2) of Regulation. No.03/2016.
5. Mr. G. Munirathnam, the Complainant in the personal hearing reiterated the same facts that were mentioned in his complaint. He further stated that where BSNL was providing telephones on OYT Scheme (Own Your Telephone) where the line will be erected with the customer money and as a token of appreciation for customers involved in telecom infrastructure for doing communication business, a rebate in a monthly fixed rentals is given for twenty years to its customers. He also further argued Airports Economic Regulatory Authority (AERA) has decided to refund the excess User Development Fee (UDF) collected from passengers travelling after 07.07.2017 'From or To' IGI Airport, Delhi.
6. The point for determination is whether the Licensee is entitled to collect cost of line and cost of plant from the consumer?

The contention of the complainant is that as per Sub Sec.2 of Sec.43 of Electricity Act it is the duty of the distribution licensee to provide electric plant or line if required for giving electricity supply for the premises. Sec.46 empowers the Regulatory commission to authorize a

distribution licensee to charge any expenses reasonably incurred in providing electric line or electric plant used for the purpose of giving power supply from a person requiring a supply of electricity in pursuance of Sec.43 of Electricity Act.

Sub Para (1) of Para 7 of Regulation. No.04/2013 provides that the licensee shall estimate the cost of service as per the latest cost data based on actual survey and line length. But the licensee after collecting estimation charges is not verifying the same with the actual costs incurred for supply of electricity. Licensee is arbitrarily collecting amounts under several heads. Electricity Act does not empower the Licensee to collect additional charges arbitrarily and the regulatory commission is also not empowered to authorize the Licensee to collect such charges from the consumer. The collection of cost of line and cost of plant is not permitted by the Electricity Act. The Complainant's feeder is not a dedicated feeder and he is a EHT consumer. BSNL authorities when providing land line Telephones under OYT (Own your Telephone) scheme giving rebate in monthly fixed rentals for about 20 years to the customers. The Airport Authority is also returning the amount of user development fee. Since the licensee is collecting unauthorized amounts against the provisions of Electricity Act complainant is entitled for refund of cost of line and cost of plant.

The contention of Respondent is Sec.46 of the Act authorizes regulatory commission to permit the distribution licensee to charge a person any expenses reasonably incurred in providing any electricity line or electric plant used for providing supply of electricity in pursuance of Sec.43.

The other contention of the Complainant is that as the Licensee is collecting amount for erecting line and plant, they are the property of complainant/consumer and when the service was dismantled the cost of line and plant has to be refunded.

Clause 5.3.2.2 of General Terms and Conditions of Supply is as follows:

“Notwithstanding the fact that a portion or full cost of the service line has been paid for by the consumer, the service line shall be the property of the Company, which shall maintain it at its own cost. The company shall also have the right to use the service line for supply of energy to any other person(s)”.

In view of the above Clause in GTCS the contention of the complainant that the service line and plant will be the property of the consumer is not correct.

Sub Para (1) of Para 7 of Regulation No. 04/2013 the licensee is entitled to estimate the cost of service line basing on the latest cost data on actual survey and line length and after

collecting the above said estimated cost only the licensee will commence the work for providing supply.

Complainant was given supply from 11 KV industrial feeder emanating from 33/11 KV Mittakandriga SS and hence he is liable to pay service line charges of Rs.42,980/- and cubicle charges (Meter and allied equipment) of Rs.1,91,010/-. Licensee has collected the above said amounts in view of the provisions of Sub Para (1) and (2) of Para 7 of Regulation No.04/2013 issued by Hon'ble APERC under Sec. 46 of the Electricity Act,2003. Licensee is empowered to collect the above said charges the complaint is devoid of merits and liable to be dismissed. Sub Sec (2) of Sec. 43 is as follows:

It shall be the duty of every Distribution Licensee to provide if required, electric plant or electric line for giving electric supply to the premises specified in sub section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the appropriate commission.

Sub Section (5) of Sec.45 says that "The charges fixed by the distribution licensee shall be in accordance with the provisions of Act and regulations made in this behalf by the concerned State Commission"

Sec.46 says "Power to recover expenditure - The State Commission may, by regulations, authorize a distribution Licensee to charge from a person requiring a supply of electricity in pursuance of Sec.43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply"

Though the complainant referred Sub Sections (b) & (d) of Sec. 61 & Sub Sec (1) (b) of Sec 62 of Electricity Act 2003 , it relates to the subject of "Tariff" "In part 7" of Electricity Act and does not relate to the question in hand.

According to Sub Section (5) of Sec.45 the charges fixed by the licensee shall be in accordance with the provisions of Electricity Act and regulations made in this behalf by the State regulatory commission.

According to Sec.46 of the Electricity Act, 2003 the state regulatory commission authorizes the Distribution licensee to collect charges from any person who requires supply of electricity in pursuance of Sec.43.

The provision to Sub Sec.(2) of Sec.43 gives right to the licensee to provide supply of electricity only if that person agreed to pay the price as determined by the state commission.

Sub Para (1) of Para 7 of Regulation No..04/2013 issued by the Hon'ble Andhra Pradesh State Electricity Regulatory Commission authorizes the licensee to estimate the cost of service line as per the latest cost data based on actual survey and line length. When consumer applies for service connection the estimate cost of service will be prepared based on the latest cost data based on actual survey and line length. The above Sub Para (1) of Para 7 provides that licensee shall commence the work only after payment of estimated charges from the said consumer. So merely because the amount collected from the consumer for providing supply of electricity is called as " Estimated Cost", it cannot be said that again the expenditure had to be reviewed and compared the actual expenditure with the estimated cost collected from the consumer. The estimated cost is prepared only after actual survey and on line length basing on the latest cost data. So the contention of the complainant is that the licensee is collecting the amount in advance basing on the estimate and the same has to be reviewed after providing supply with actual expenditure has no basis.

Sub Para (1) of Para 9 of Reg. 04/2013 provides that the licensee shall submit schedule of rates for commission for approval on annual basis and publish the cost data book by 1st April, which shall be the basis of making initial estimate for erection of electric line or electric plant in order to extend supply to the applicant.

So the above Sub Para (1) of Para 9 clearly shows that cost data prepared by the licensee will be submitted to Hon'ble Commission and the copies of it will also be available to the general public at a reasonable charge. The licensee is entitled to collect the estimated cost prepared on the latest cost data after approval by the Hon' ble Commission. So the contention of the complainant that the estimated cost prepared by the licensee arbitrarily as it was not reviewed after erection of plant and line is not tenable.

The other contention of the complainant is that Electricity Act does not permit to collect cost of line and plant and plant cost and the collection of charges basing on Para 7 of Regulation No. 04/2013 is illegal is not correct. In view of the specific provisio to Sub sec 2 of Sec.43 authorizes the distribution licensee to provide electricity supply only after the applicant agreed to pay the price determined by the state regulatory commission. So also Sec46 of the Act authorizes the State regulation commission to allow the distribution licensee to collect charges from a person requiring a supply of electricity in pursuance of Sec.43.

In view of the above said provisions the Hon'ble APERC issued Reg.04/2013 authorizing the licensee to collect service line charges as per Para 7 and development charges as per Para 8 from the applicant who requires power supply.

Every organization will frame their policies for running their business. Merely because BSNL authorities have provided a rebate in fixed rent for a period of 20 years to its land line consumers and the Airport authority refunded user development charges, it cannot be said that distribution licensee also has to follow the policies of the other organizations.

If the complainant is of the opinion that the Hon'ble Regulatory Commission has no power to allow the licensee to collect cost of line and cost of plant, his remedy is elsewhere. This Forum is not empowered to make a comment or interpret the provision of regulations issued by the Hon'ble commission from time to time. This Forum is only competent to intervene and pass orders when the licensee fails to follow the regulations issued by the Hon'ble APERC from time to time within the provisions provided in Regulation No.03/2016.

No material is placed by the complainant that licensee was collecting cost of line and cost of plant against the provisions of Electricity Act and the regulations given by the Hon'ble commission from time to time. The allegations mentioned in the complaint will not fall under "Grievance" as provided under Sub Para (7) of Para 2 of Regulation No.03/2016.

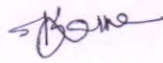
7. In view of the above reasons the complaint is devoid of merits and liable to be dismissed.
8. In the result the complaint is dismissed.

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 day of 07th August 2018.

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(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.

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