

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

On this the 6th day of June 2020

C.G.No:390 /2018-19 /Kurnool Circle

Present

Sri. Dr. A. Jagadeesh Chandra Rao
Sri. Dr. R. Surendra Kumar

Chairperson
Independent Member

Between

M/s. Rayalaseema Cold Storage Pvt Ltd,
297,298/1,
NH-44 Road,
Dinnedavarapadu,
Vengannabavi,
Kurnool .

Complainant

AND

1. Assistant Accounts Officer/ERO/Kurnool (R)
2. Assistant Executive Engineer/O/Kurnool (R)
3. Deputy Executive Engineer/O/Kurnool
4. Executive Engineer/O/Kurnool

Respondents

ORDER

1. Complainant presented this complaint for shortfall billing for the period from April'17 to August'18 for a sum of Rs. 4,73,150/-. The notice was issued on the ground that Cat-3 LT service has exceeded the contracted load and bills have been raised under HT billing.
2. Respondent No.2 filed written submission stating that the complainant is having ISC No.8322205000849 under LT Cat-III with the contracted load of 73 HP. On 26.02.2009 consumer was served with the notice for regularization of additional load of 32 HP as the consumer exceeded contracted load vide Case No. DPE/ KNL/SD02/1219/09. In response to the above notice consumer has paid an amount of Rs. 64,000/- on 19.03.2016. The contracted load of consumer was increased from 73 HP to 105 HP. The additional load of 32 HP was regularized during 04/2016. An internal audit was conducted in August'2018 for ERO/Rurals/ Kurnool, a shortfall amount of Rs.4,73,149.90 for the period from 04/2017 to 08/2018 was levied on the consumer towards HT billing tariff difference due to non-adoption of HT billing. The auditors have levied the shortfall amount based on the issue of exceeding contracted load to more than 75 KW /100 HP and not on the basis of RMD. The RMD of the consumer has not exceeded more than 75 KW/100 HP

so far. As per the orders of CGM/R&IA vide Memo No. CGM/R&IA/GM/IA/SPDCL/TPT/JAO-1/F.No.8-1A-RL/D.No.1090/18 dt:17.12.2018, they have issued notice to the consumer for payment of shortfall amount. On 26.09.2018 the load of the consumer was derated from 105 HP to 95 HP. The consumer should be billed under HT Tariff with effect from 04/2016 to 26.09.2018 i.e. up to date of deration of the load. As per the tariff conditions, the services having contracted load up to 75KW /100 HP should be billed under LT tariff and beyond 75 KW /100 HP contracted load should be billed under HT tariff.

3. Respondent No. 3 also filed written submission on similar lines.
4. The point for determination is whether the complainant is liable to pay shortfall amount as the service of the consumer to be billed under HT tariff from April' 16 to August'2018?

The facts in this case are that DEE/DPE/Kurnool said to have inspected the premises on 12.02.2009 at 12.30 P.M. and found connected load is at 104.66488 HP against the contracted load of 72.69973 HP and found excess of connected load over contracted load at 31.97 HP and basing on that inspection report, a notice was said to have been issued to the consumer on 07.03.2009 for payment of Rs.64,000/- towards additional load charges. Consumer said to have paid the amount on 19.03.2016 i.e. after 7 years of alleged inspection. No explanation was given as to why the field officers kept quiet for all those 7 years when consumer did not choose to pay the additional load charges or take steps for deration of load. Even after payment of additional load charges, no steps were taken to get agreement from the consumer to convert the service form LT to HT. Subsequently audit was conducted between 02.08.2018 and 14.08.2018 and stated that the service of the consumer exceeded the contracted load more than 100 HP i.e. 105 HP. Then an audit slip was issued on 18.09.2018 assessing the HT shortfall amount of Rs.4,73,150/- for the period 04/2017 to 08/2018 . The service said to have been inspected physically as per the representation of consumer on 22.8.2018 and reported that the consumer has not exceeded the connected load of 95.0 HP and connected load of the service is 95.0 HP only. Thereafter consumer has applied for deration of load and the load was derated to 95.0 HP fulfilling all formalities on 26.09.2018 . So the present connected load of the consumer is 95.0 HP only. The written submission of Respondent No. 4 dt:13.02.2020 shows that though auditors convinced during the discussion with Divisional Engineer/O/Kurnool and on the final day of the audit, dropped shortfall amount which was assessed in inspection report but the report was not accepted by Corporate Office authorities and opined that the replies submitted by Division Office/ Kurnool are not tenable and not fulfilled the tariff conditions and instructed to collect the shortfall amount . The copy of the proceedings of

Memo No. CGM/R&IA/GM/IA/SPDCL/TPT/JAO-1/F.No.8-IA-KRL/D.No.1090/18, dt: 17.12.18 in respect of this Service Number of the consumer it was mentioned as :

“As per Tariff conditions, the service having contracted load upto 75 KW/100 HP should be billed under LT Tariff and beyond 75 KW/100 HP contracted load shall be billed under HT Tariff.

Sc.No.8322205000849 of DD Padu should be billed under HT Tariff w.e.f. 04/16 since the contracted load is 105 HP. Actually the consumer is liable for payment of bill under HT Tariff w.e.f. 04/16 to 26.09.2018 i.e. upto the date of deration of load. The auditors have levied shortfall only from 4/17 to 8/18 for Rs.473149.90

The reply furnished by the AE/O/Kurnool & ADE/O/Kurnool and submitted by the AAO/ERO/R/Kurnool are not tenable and not fulfilled the tariff conditions”.

The reasons for coming to conclusion that the replies furnished by AEE and AAO/ ERO/ Rural/Kurnool are not tenable and not fulfilled the tariff conditions are not mentioned in the memo.

According to the complainant, they are not aware of the inspection in 2009, but in view of the pressure applied on them to pay Rs. 64,000/-, they have paid the amount though their service never exceeded 100 HP, no notice was issued basing on the alleged inspection said to have been conducted in the year 2009. Mere payment of additional load amount is itself is not sufficient to say that consumer is having connected load more than 100 HP. They came to know that respondents are intending to bill their service under HT category only after shortfall amount bill notice was issued to them and immediately they approached respondents and on their representation, inspection was conducted immediately and in the inspection, it was found that connected load is less than 100 HP and on the advice of respondents, they have also applied for deration and deration was effected. Raising of shortfall bill amount for HT category though their service is under LT category without physical inspection is arbitrary, illegal and liable to be set aside.

In this connection, it is relevant to refer the Clauses of 12.3.3.1 and 12.3.3.2 of GTCS which is as follows :

“12.3.3 Additional Connected Loads detected in LT Services Cases

12.3.3.1 Where the total Connected Load is 75 HP/56 kW or 150HP in cases of LT Cat III(B) or below at the time of detection:

- i. 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, in accordance with the format prescribed in Appendix IX. 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.

- ii. Service of consumers who do not get the additional loads regularised, shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection, until they are regularised.*

12.3.3.2 Cases where the total Connected Load is above 75 HP/56kW or

- i. These services shall be billed at the respective HT tariff rates from the consumption month in which the un-authorized additional load is detected. For this purpose, 80% of Connected Load shall be taken as billing demand. The quantity of electricity consumed in any Month shall be computed by adding 3% extra on account of transformation losses to the energy recorded in LT Meter.*
- ii. The Company may at its discretion, for the reasons to be recorded and in cases where no loss of revenue is involved, continue LT supply. If the consumer, however, makes arrangements for switchover to HT supply, the Company shall release HT supply as per the rules.*
- iii. 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 3(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.*
- iv. Service of such consumers who do not pay HT tariff rates or who do not pay the required service line charges, development charges and consumption deposit shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection unless the required service line charges, development charges and consumption deposit are paid for regularising such services by conversion from LT to HT category.*
- v. If the consumer where required, does not get the LT services converted to HT supply and regularised as per procedure indicated above within three months from the date of issue of the notice, the Company is entitled to terminate the Agreement by giving required*

notice as per clause 5.9.4 of the GTCS, notwithstanding that the consumer is paying bills at HT tariff rates prescribed in clause 12.3.3.2 (i) above.

12.3.3.3 : Cases where the total Connected Load is above 75 HP/56kW or Cases where the total connected load is above 150 HP under LT Category III (B). These services will be billed at the HT category I tariff rates from the consumption month in which the un-authorized additional load is detected till such additional load is removed and got inspected by the Designated officer of the Company”.

The facts of this case clearly shows that no steps were taken by the respondents for disconnection of the service and termination of the agreement when the consumer failed to pay additional load charges and not applied for conversion of his service from HT to LT. immediately after the expiry of the period mentioned in the above clauses

Respondents also did not place any evidence to show that the notice was issued to the consumer under Clause No. 12.3.3 of GTCS after the inspection said to have been conducted by DEE/DPE/KNL. In the absence of any material to show that notice was issued along with copy of inspection notes to the consumer, respondents are not permitted to proceed further basing on the above said inspection. It is an admitted fact that payment of additional load amount on 19.03.2016 had occurred after 7 years of the alleged inspection. No notice was issued to the consumer to apply for conversion of his service from LT to HT. Similarly no notice was issued for termination of the agreement when consumer has failed to apply for conversion of the service from LT to HT after the expiry of the period after the date of inspection in 2009. No authority is placed by the respondents to show basing on mere payment of additional load charges after 7 years of the inspection will automatically permit them to convert the service form LT to HT unilaterally without any prior notice and physical inspection of the premises.

Respondents have not followed the provisions of Clause No. 12.3.3 of GTCS. Respondents are not entitled to raise shortfall amount for 1 year on the ground that the service exceeded 100 HP and it has to be billed under HT category even after they found that the connected load of the consumer is less than 100 HP in the inspection that was conducted immediately after issuing shortfall amount notice on the representation of the consumer.

In view of the above reasons respondents are not entitled to issue above shortfall amount. The point is answered accordingly.

5. In the result respondents are directed to withdraw the shortfall amount of Rs. 4,96,143.90 and issue revised bill within 15 days from the date of receipt of this order and submit compliance report within 15 days thereon.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh**, 3rd Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008, within 30 days from the date of receipt of this order.

This order is passed on this, the day of 6th June 2020.

Sd/-
Independent Member

Sd/-
Chairperson

True Copy
10/6/20
09/06/2020
Member/Finance

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)/CGRE/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.