

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

**On this the 25th day of September 2020
C.G. No: 253/2019-20/Anantapur Circle**

Present

Sri. Dr. A. Jagadeesh Chandra Rao

Chairperson

Sri. A. Sreenivasulu Reddy

Member (Finance)

Sri. V. Venkateswarlu

Member (Technical)

Sri. Dr. R. Surendra Kumar

Independent Member

Between

C. Padmaja,
S/o. C. Lakshminarayana Reddy,
Rayalacheruvu,
Tadipatri,
Anantapur -Dist .

Complainant

AND

1. Assistant Accounts Officer/ERO/Tadipatri
2. Assistant Executive Engineer/O/Tadipatri
3. Executive Engineer/O/Gooty

Respondents

ORDER

1. The case of the complainant is that she is having LT Service connection vide SC No.7231430001804 for their powder manufacturing factory. They were asked to pay development charges of Rs. 94,000/- in 2017. Accordingly they paid the amount. In the year 2019 she was asked to pay Rs.1,34,026/- and she paid that amount. Again now respondents are demanding to pay Rs.8,24,333/- and the same was included in the current CC bill and insisting her to pay the amount, otherwise they will disconnect the service connection. She came to know that amount was towards back billing, she was never informed about this amount previously. She is regularly paying the CC bills. She is not in a position to pay the said amount. Hence the same may be withdrawn.
2. Respondents No. 1 and 2 filed separate written submissions. The contents are similar in nature and in brief:

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Complainant had paid for the additional load case booked against her on first occasion for a contracted load of 121 HP. But the load was not regularized as the contracted load could not be more than 100 HP. Short billing case was booked for an amount of Rs.1,34,026/- and found that the LT service was billed in HT billing from September'16 to February'17 considering that the complainant had paid for additional load case for a contracted load of 121 HP. Complainant was informed to book an application in mee- seva for conversion of LT service into HT service by finalizing the contracted demand. Accordingly complainant had booked an application in mee-seva vide registration No. 72314C027442018AUG 14 by declaring her CMD as 105 KVA. After came to know that the expenditure involved for converting the LT service to HT service, complainant did not come forward to pay the amount due to her financial stress. The application was deleted. Subsequently DE/DPE/ATP booked a short billing case on 18.05.2019 for an amount of Rs.8,24,433/-. After receiving back billing notice complainant came forward to convert the LT service to HT service with CMD 105 KVA and applied in mee- seva got re-registered her application vide Reg. No. 72314C027442018 AUG 14. Complainant also paid the estimate charges for converting the LT service to HT service for an amount of Rs.2,19,000 on 19.12.2019. The service was physically inspected by DEE/O/Tadipatri on 16.03.2020 and found the connected load of the complainant is 102 HP. LT service billing in HT is being done from the month of 06/2019 with CMD 105 KVA after taking the declaration of the CMD from the complainant to avoid further HT shortfall billing. Complainant utilizing the supply more than 100 HP load and in physical inspection also it is found that the connected load of the service is more than 100 HP. Hence she is liable to pay back billing amount of Rs.8,24,433/-

3. Personal hearing was conducted on 14.02.2020. But complainant was absent. Hence again personal hearing through video conferencing was conducted on 15.06.2020. Complainant's husband and Respondents present. Both parties reiterated their version as mentioned in their pleadings.
4. The point for determination is whether issuing a bill for shortfall amount of Rs.8,24,433/- is sustainable ?

The contents of the written statement shows that AE /Yadiki inspected the premises on 09.04.2011 and found excess connected load over contracted load of 47 HP and basing on the inspection, a notice said to have been issued to the consumer.

Consumer said to have paid Rs.50,000/- under two receipts on 19.4.2012 and 19.04.2017 and the remaining amount of Rs.44,000/- said to have been paid on 06.07.2018.

The notification issued by Licensee and approved by Hon'ble APERC as per Clause.4 of GTCS authorized officers for the purpose of registering the cases under Sec.126 of the Electricity Act for un-authorized use of electricity vide G.O. Ms. No.145 (Energy) dt: 31.12.2003 as amended in GO.RT No.70 Dt: 10.03.2004 shows that all LT-III and cottage industries shall be inspected of the rank of ADE/Operation and above, all officers of the rank AE (DPE) and above. So the inspection said to have been made by AE/ Yadiki on 09.04.2011 is without any authority and it is not valid. So the same cannot be taken into consideration

The particulars of the payment of Rs.94,000/- said to have been paid by the complainant basing on the notice issued by DEE/O/Tadipatri shows that consumer paid the said amount in 3 installments i.e., the 1st installment of Rs.30,000/- in the month April' 2012, the 2nd installment of Rs 20,000/- in the month of April' 2017 and the remaining amount of Rs.44,000/- the 3rd installment was paid in July' 18 so consumer was allowed to pay the additional load notice amount in 3 installments that too with a gap of 7 years from the alleged date of inspection . Respondents did not give any valid explanation as to why they kept quiet for about 7 years in collecting the notice amount and as to why action was not taken for disconnection of the service for all these 7 years. So also they did not show any authority that they are empowered to give above such liberal installments for payment of additional load notice amount.

The service said to have been again inspected by B. Jaya Raju, DE/ DPE on 18.05.2019 at 9.30. A. M. The copy of the notice dt : 11.06.2019 said to have been served on the complainant in Column No.2 it is mentioned as “ at the time of inspection ISC No.1804 of C. Padmaja , W/o. C. Lakshmi Narayana, Pulvariser Cat-III, C.L 74 HP + additional 47 HP = 121 HP/90.26 KVA and verified service ledger at ERO/ Tadipatri dt :18.05.2019”.

The entire contents of the paragraph 8 under the head ‘ observations made at time of inspection’ of the said inspection report and inspection notes of DE/DPE dt :18.05.2019 and the copy of the inspection report submitted by respondents as per the direction of the Forum reveals that the entire inspection appears to have been made basing on the account of the service number available at ERO/Tadipatri and he

did not make a personal inspection of the service and recorded the detailed connected load of the appliances with the respective ratings.

Inspection has to be made in accordance with Appendix IV (A) / IV (B) of GTCS as the case may be. But mere preparing an inspection notes at the ERO Office and basing on such report coming to conclusion that complainant is having a particular load is against to the provisions of the Clause No. 12.3.3. of GTCS which was issued by the licensee and approved by the Hon'ble Commission. The contention of the respondents that exceeding of RMD continuously every month was intimated to the consumer through bills and also consumer is paying HT fixed charges for RMD recorded above 75 KVA and this is a significant factor for deciding the billing tariff of the service under HT- 1 category instead of LT Category -3 as per the provisions of Clause No.12.3.3.3 of GTCS is not tenable.

Clause No. 12.3.3.1 (i) and 12.3.3. 1 (ii) is as follows :-

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 deletion:

i. One Month notice shall be given to regularize 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 regularized , shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection, until they are regularized.

The above provision shows that consumer has to pay the required amount in accordance with the format prescribed in Appendix - IX of GTCS.

The contention of the Respondents is against to the above said provision. Clause No.12.3.3.1 of GTCS do not permit the Respondents to raise bills under HT billing automatically on the ground that consumer exceeded RMD over and above 75

KVA and the exceeding of RMD over and above 75 KVA is intimated to the consumer through issuing of CC bills in every month and collecting HT fixed charges for RMD recorded above 75 KVA.

After inspection a notice for development charges shall be given to the consumer as provided in Appendix- IX of GTCS when it is found that consumer is having connected load more than the contracted load. Respondents do not file copy of the notice for development charges issued to the consumer as per Appendix ix before the forum. Hence it has to be presumed that no notice is issued to the consumer in this case as per the prescribed proforma in Appendix- IX. So no reliance can be placed on this inspection notes as it is not legally sustainable.

However the history of the service Number and according to written submissions of Respondents consumer on the advice of Respondents said to have made an application for converting the service to HT declaring her CMD as 105 KVA Vide registration No. 72314C027442018 Aug14 (But the date of application is not mentioned as 14.08.2018) and subsequently estimate was prepared but after knowing the expenditure for converting the LT service to HT service, the complainant did not pay the amount and the application was deleted. Respondents did not give any valid explanation as to why they did not physically conduct inspection of the service again to ascertain the actual connected load of the complainant to determine whether the service will come under LT/HT category?

The DE/DPE said to have booked a case for short billing on 18.05.2019 i.e. after 9 months of the deletion of the application for converting the service from LT to HT. Even then, it appears that they did not show interest in physically determining the connected load existing in the premises of the complainant but prepared inspection report basing on the history of the account available in the section of ERO that too basing on exceeding of RMD. Respondents do not follow the mandatory provisions of GTCS and the G.O. MS:145(energy dt:31.12.2003 as amended G.O.RT No:70 dt:10.03.2004 issued in respect of un-authorized use of electricity more particularly Clause No's. 4 and 12.3.3. of GTCS.

In this case registering additional load cases on two occasions i.e. on 28.11.2010 and 18.05.2019 are not legally valid. Since both the inspections are invalid, mere payment of amount in installments in the year 2011,2017 and 2018 towards additional load notices is itself is not sufficient to come to conclusion that

complainant admitted that she is having additional load. Mere payment of balance amount towards additional load notice amount in the year 2018 does not confer power on the respondents to raise short billing.

Respondents also did not explain how they raised shortfall billing from June' 17 when the consumer paid remaining part of additional load notice amounts issued in the year 2011 on 19.07.2018?

In this case short billing was raised for a period of two years that is from June 2017 to May 2019. Respondents did not show under what provision they raised short billing for period of two years?. In this case it is relevant to refer Clause 9.3.2.9 of GTCS which is as follows:

"If the assessing officer reaches to the conclusion that Un-authorized use of Electricity has taken place, the assessment shall be made for the entire period during which such un-authorized use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of 12 months immediately preceding the date of inspection in accordance with Section 126 (5) of the Act"

Field officers in several cases are filing written submissions stating that there is no possibility for converting the service from LT to HT when connected load is exceeding 100 HP due to software issues and as such they were not able to convert the service to HT even though the connected load is found more than 100 HP. If there is a problem in software for billing under HT category when connected load exceeds 100 HP, this problem ought to have been brought to the notice of the Corporate Office and Corporate Office in-turn has to resolve the issue. But the field officers and corporate Office should not keep this issue pending for years together. Since field officers repeatedly raising this issue and difficulty in issuing bills as stated above, it is advised to the corporate officer to resolve this issue as soon as possible, so that this issue will not recur and resulting in loss of revenue to the Licensee.

The case facts clearly show that the field officers have not followed the prescribed procedures for registering additional load against the services of the consumers. Had the field Officers followed the prescribed procedures in detecting the additional load cases, there will be no scope for consumer to evade to convert their services from LT to HT if they are having load in excess of 100 HP/75KVA and above. So also there will be no financial loss to the Licensee. Hence Licensee is

