

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

On this the 24th day of September' 2020
C.G. No: 281/2019-20/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

K.Subramanyam,
C/o. M/s.Vamsi Traders,
Sy.No.56/3,
Chukkaluru Road,
Near New Bridge,
Tadipatri (M),
Anantapur Dt.

Complainant

AND

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

Respondents

ORDER

1. The case of the complainant is that they are having ISC No.7231129001737 in the name of M/s. Vamsi Traders. They have received a notice for back billing from May' 18 to May'19. After receipt of notice, he submitted a letter to Respondent No. 3 for physical inspection of their unit but there was no response. Subsequently he appealed to SE/O/Anantapur and CMD/ APSPDCL/Tirupati but there was no response. AEE forced him to pay Rs.1,00,000/ on the threat of disconnection of the service. Hence he is requesting to withdraw the back billing charges and refund the amount of Rs.1,00,000/- paid by him under threat of disconnection of the service.
2. Respondent No. 3 filed written submission stating that service No.7231129001737 is released in the name of Subramanyam M/s. Vamsi Traders with contracted load of

DESPATCHED

DATE

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100 HP and service was released on 09.01.2015. An auto generated case was registered for 6 KW (8HP) on the recorded MD of 79.7 KW against the contracted load of 73.85 KW. The amount was included in CC bill in the month of 09/2018 and paid by the consumer on 26.12.2018. After payment of additional load case amount the contracted load of the above service shall be enhanced to 106 HP. Since there is no provision in CBS to enhance the contracted load above 100 HP the billing has been done under LT only and service shall be converted from LT to HT as per GTCS Clause No. 12.3.3.3.

On 18.05.2019 EE/DPE/Anantapur has registered a back billing case towards the differential tariff from LT to HT of Rs.4,21,138/- from 05/2018 to 05/2019 and PAO notice was issued to the consumer on 23.06.2019. Consumer has not responded to the PAO notice and subsequently paid only Rs.1,00,000/ and paying regular CC bills only. Consumer continuously exceeded RMD and respondent No.3 furnished the RMD particulars of the service number from June' 18 to February'2020.

3. Respondents No.1 and 2 also filed separate written submission on similar lines.
4. At first instance consumer filed an application for restraining the respondents from disconnecting the service connection during the pendency of his complaint before this forum. Basing on his request, an order was passed directing the complainant to pay Rs.1,00,000/- and on payment the service connection shall not be disconnected during the pendency of the complaint before this forum. It appears complainant aggrieved by the orders of the forum directing him to pay Rs.1,00,000/- made a representation to Hon'ble Vidyut Ombudsman in Appeal No. 51/2019-20 and the Hon'ble Vidyut Ombudsman was pleased to direct the forum to dispose of the complaint as expeditiously as far as possible.
5. The complainant was heard in personal hearing through video conferencing on 15.06.2020. Both parties reiterated their versions mentioned in the pleadings.

6. The point for determination is whether the back billing notice served on the complainant for Rs.4,21,138/- is liable to be withdrawn?

The written submission filed by respondents shows that an auto generated case was booked against the service No.7231129001737 in the month of May'18 on the premise that the consumer exceeded RMD continuously and the service should be billed under HT category instead of LT category. Consumer paid the additional load notice amount for 5.85 KW for an amount of Rs.11,300/- which was included in monthly bill of Aug'2018. So the above submissions made by the respondent in their written submission clearly shows that a case for additional load was booked against the service Number by way of an auto generated case basing on the RMD. No physical inspection was made till the generation of additional load case by the respondents even though it came to their notice every month while issuing CC bills.

The service said to have been inspected by DE/DPE/Anantapur on 18.05.2019. The copy of the inspection notes shows that the inspection was carried out by the officer in the presence of the consumer and found that the consumer is having connected load of 106 HP against the contracted load of 99 HP. The field officer also mentioned that service was recording continuous excess RMD more than 75 KW/100 HP from 5/2018 till the date of inspection. The inspecting officer recommended back billing from 05/2018 to 05/2019 for 13 months for an amount of Rs. 4,21,138/-.

Complainant wrote a letter to DE/Operation on 03.07.2019 stating that the service used excessively for the period from 05/2018 to 05/2019. He stated in the letter that they have installed new machinery about one year back and from that date they are receiving excess bill and after receipt of notice he derated the load and requested to inspect the premises.

Complainant addressed a letter to CMD/APSPDCL dt : 04.09.2019 wherein he stated that they have installed a low power consumption new machine at their unit for 3 or 4 months for specific works about 10 months back . Subsequently a back billing provisional order was received for the period from 05/2018 to 05/2019 for an amount of Rs 4,21,138/-. So he made a representation stating that they have removed the excess machine immediately from their unit and requested to inspect the unit and withdraw the PAO back billing case. No officer inspected the premises.

Complainant presented two complaints separately on 09.01.2020 and 22.01.2020. The contents of those complaints clearly shows that he had withdrawn the load and requested Respondent No.3 to inspect their unit and to approve the contracted load. But Respondent No.3 did not respond even after 3 months. The letters mentioned above were addressed by complainant after receipt of back billing notice only.

The written statement of Respondent No. 1 shows that an auto generated case was booked on 28.05.2018 and included in CC bill in the month of 09/2018 and paid by the complainant on 26.12.2018. The admission made by the complainant in his letters to Respondent No. 3 clearly shows that he had installed new machinery prior to about one year to his letter dt: 03.07.2019. It is the duty of the consumer whenever he installs the new machinery or add some appliances he has to intimate the same to the field officers who inturn will physically inspect the premises and decide whether the additional machinery or replaced machinery is within the permissible limits of the contracted load of the service or advise him to apply for additional load in case those machinery enhances the load more than contracted load. But consumer cannot keep silent about adding new machinery and when the inspecting officer found excessive load and issued back billing come with a plea that he has removed the new machinery and seek for inspection and withdrawal of the back billing notice. The complaint filed by the complainant was registered on 31.01.2020. V. Raghu DEE/O/Tadipatri inspected the premises on

12.02.2020 i.e. within 12 days from the date of registration of the complaint before this forum and found that the connected load as 109 HP. The inspection was done in the presence of the complainant and he also signed in the inspection notes. Again on 10.06.2020 i.e. 5 days prior to date of personal hearing by this forum complainant gave a letter to Respondent No. 2 stating that he had decreased the load and requested to see that the service is not billed under HT category. On the same day respondent No. 2 inspected the premises in the presence of complainant and found that the connected load as 90 HP.

The inspection reports and the letters addressed by the complainant to respondent No. 3 and CMD clearly shows that he had installed a new machinery and increased the additional connected load more than the contracted load. Consumer is aware of his load. Hence after receipt of additional load amount included in the CC bill he simply paid that amount only and came with a plea that he has withdrawn the additional load only after receipt of back billing notice. Though consumer addressed letters as mentioned above and filed the complaint before the forum questioning the back billing amount, he did not remove the additional load as per Clause No. 12.3.3 of GTCS and only got reduced his load when the case was coming for final hearing before the forum on 15.06.2020. The history of the account statement of the complainant clearly shows that complainant exceeded RMD continuously and that exceeding of RMD is due to adding new machinery in his factory and not for any other reason. So it can be safely concluded that consumer is having connected load more than 100 HP for about one (1) year prior to his letter dt : 03.07.2019 addressed to Respondent No.3 and his service is liable to be billed under HT category only but not under LT category as claimed by the complainant.

The relevant provision where the assessing officer come to conclusion that unauthorized use of electricity has taken place as provided under Clause No. 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 un-authorized 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”

The assessing officer is entitled to assess the unauthorized use of electricity for a period of 12 months where the period could not be ascertained. The date of inspection in this case is on 18.05.2019. Hence he is authorized to raise back billing for a period of 12 months prior to his date of inspection of the premises. In this case the assessing officer raised back billing for a period of 13 months which is contrary to the above said provision. Hence consumer is liable to pay back billing for a period of 12 months only. The contention of the complainant that he is not liable to pay back billing and his service could not be billed under HT category even though he is having connected load more than 100 HP is not tenable. The point is answered accordingly.

7. In the result respondents are directed to issue revised back billing for a period of 12 months prior to the date of inspection i.e. 18.05.2019 within 15 days from the date of receipt of this order and submit compliance report within 15 days thereon. Accordingly the complaint is disposed off.

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 24th September 2020.


Sd/-
Member (Finance)

Sd/-
Member (Technical)

Sd/-
Independent Member

Sd/-
Chairperson

Forwarded By Order



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 , 3rd Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008.

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