

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

On this the 3rd day of November 2020

C.G. No.323/ 2017-18/Tirupati Circle

Present

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

Chairperson
Member (Technical)
Independent Member

Between

Sri. G. Muniratnam
D.No:2-1-122/79
T.R.Kandriga,
M.Kothur Post
Nagari -517590
Chittoor – Dist

Complainant

AND

1. Chief General Manager/RAC/APSPDCL/ Tirupati
2. Chief General Manager/O/APSPDCL/Tirupati
3. Superintending Engineer O/Tirupati
4. Executive Engineer/O/Tirupati

Respondents

PUTTUR

ORDER

1. a) The complainant, M/s. Ajanthy Foods at first instance filed the complaint for declaration of ownership of line/plant erected with their money and refunding the cost of the plant of Rs.1,91,010/-.
- b) Complainant argued before the forum that sub-section (2) of Sec.43 and Sec. 46 of the Electricity Act, 2003 are contradictory with each other on providing electrical plant/electrical line for giving supply. Complainant also argued that APSPDCL has taken advantage of its monopoly in preparing estimate with miscellaneous and fictitious charges and they are not reviewing the same after completion of the work and refunding the excess amount if any collected to the complainant.

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c) Complainant also argued that Reg. No. 04/2013 permits for collecting the line service charges and development charges pertaining to dedicated feeder and EHT services and do not applicable to the individuals more in particular when meter rent is collected every month by the DISCOM. Since the averments of the complainant as well as his oral submissions shows that complainant is seeking clarifications on some issues which do not fall within the ambit of the forum, the complaint was rejected.

2. Aggrieved by the orders of this Forum, complainant preferred a representation to the Hon'ble Ombudsman. The Hon'ble Ombudsman set aside the orders of the forum and remanded the matter with a direction to deal with the complaint in accordance with the provisions of Reg. 03/2016.
3. As per the directions of the Hon'ble Ombudsman, the compliant is registered as C.G. No.323/2017-18.
4. a) The contention of the complainant is that Sec. 46 of the Electricity Act authorized the Hon'ble Commission to permit the distribution licensee to charge reasonably incurred expenses in providing electricity supply in pursuance of Sec. 43. When Licensee is collecting money the same has to be refunded on dismantlement of the service. Complainant also argued that the Electricity Act does not permit to collect cost of line and cost of plant. Collection of charges basing on para 7 of Reg. No. 04/2013 is illegal.
b) Clause No.5.3.2.2 of GTCS says that the service shall be the property of the company, it has right to use the service line for supply of energy to any other persons.
c) "Sub- clause (1) of Clause. 7 of Reg. 04/2013 provides that Licensee is entitled to estimate the cost of service and after collecting the estimated charges only licensee will commence the work for providing supply"
d) Sub - Clause (1) of Clause. 9 of Reg. No. 04/2013 contemplates that Licensee has to submit schedule of rates before the Hon'ble commission for approval on annual basis and publish the

cost data book by 1st April which shall be the basis for making estimate for erection of electric line or electric plant in order to extend supply to the applicant.

5. In view of the above specific provisions which authorized the licensee to collect estimated amount for releasing of supply and as there are no merits in the case of the complainant, this Forum dismissed the complaint on merits.
6. Aggrieved by the orders of this Forum, complainant preferred another representation to the Hon'ble Ombudsman vide Appeal No. 19/2018-19. The Hon'ble Ombudsman has framed three points for consideration viz:
 1. Whether the Licensee is entitled to collect cubicle charges from the complainant in this case?
 2. Whether the service is erected in this case would become the property of the consumer on the ground that full cost of service line had been paid?
 3. Whether the representation can be heard?

The Hon'ble Ombudsman upheld the orders of this forum on point No.2. The Hon'ble Ombudsman opined that a finding is required in respect of the right to collect the cubicle charges by the Licensee from the complainant and remanded the matter to this forum with a direction to give a clear finding on regarding the right of licensee to collect cubicle charges.

7. After remand, notice was given to both the parties to file additional pleadings. Complainant filed several additional submissions dated: 22.06.2018, 16.02.2019, 12.06.2019, 25.06.2019, 20.11.2019 and 14.09.2020. Most of the contents of those additional submissions are one and the same. Complainant is questioning with regard to collection of amount under various heads for providing service line. Nowhere it is explained what is the reasonable expenditure incurred by the licensee in providing electrical line or electric plant mentioned in Sec. 46 of the Electricity Act in pursuance of Sec. 43 of the said Act? Complainant also questioned about the reasonableness of amounts included under several heads in the estimate and also

showing transport and labour charges separately for each and every head stating that all the material will be brought to the place where they have to be erected at one time. Licensee being a monopoly in the field collecting abnormal amounts from the consumers.

8. a) Chief General Manager/ RAC filed additional written submission stating that the estimate for release of service pertaining to M/s. Ajanthy Foods was sanctioned vide Lr. No. SE/O/TPT/AE-Comml/F.No.27/D.No.204/15, Dt: 22.01.2015. As per the sanctioned estimate an amount of Rs.1,91,010/- was collected from the consumer under the head cubicle charges. The word 'cubicle charges' means CT, PT set which is allied equipment of meter. Consumer seeking electricity supply through an extension from existing line has to pay the cubicle charges and the same were collected from the consumer. The Hon'ble Commission issued clarification while issuing new connection vide Lr. No. APERC/E/202/DD-Dist /2016, Dt : 09.09.2016 stating no charges shall be collected towards metering and allied equipment such as CT, PT, connecting cables, meter box and structure of metering. The above orders of clarification is not applicable to the complainant as the estimate was sanctioned on 22.01.2015 i.e. prior to the date of order of clarification issued by the Hon'ble Commission.
- b) CGM/RAC in his letter dt : 24.05.2019 stated that as per the departmental procedure cubicle means "CT, PT along with the internal connections housed in a box". In the estimate, cost of meter and CT,PT sets (Cubicle etc..) were deducted. However the cost of erection of supporting structure for CT,PT sets (Cubicles) were collected under the head "Cubicle Charges".
- c) CGM/RAC in his letter dt : 18.07.2019 while submitting the copy of estimate for extension of HT supply stated that the cost of meter and CT,PT Set (Rs.40,530/-) were deducted from HT metering arrangements amount (Rs. 2,31,508/-) and an amount of Rs. 1,91,010/- was collected from the consumer.

- d) CGM/RAC in his letter dt: 13.11.2019 requested to implead Executive Director/O/Tirupati, SE/O/Tirupati and EE/O/Puttur as parties to this complaint on the ground that the complainant raised additional issues such as cost data and various items in the estimate regarding cubicle charges in sanctioned estimate for release of service connection No. TPT - 2113 which are not existing in the original representation. Accordingly, the above said persons were added as parties to these proceedings and notices were issued to the above said persons.
- e) CGM/Operation filed written submission stating that as per Sub Clause (2) of Clause No. 7, Sub - Section (2) of Sec.43 and Sec.46 of the Act, consumer seeking electricity supply has to pay the charges. Accordingly complainant is liable to pay service line charges of Rs.42,980/- and cubicle charges (meter and allied equipment) of Rs.1,91,010/- as per sub clauses (1) and (2) of Clause 7 of Reg. No. 04/2013. S& H charges are essential to store the material safely. Contingencies are the incidental expenses for giving supply. Establishment and general charges are the administrative and supervision costs incurred to execute the work. Service Tax and Back Ward 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 complainant. Two bills are filed as a proof to show that meter rent is not collected. Hence the complaint may be dismissed.
9. EE/O/Puttur submitted estimate prepared for extension of HT line to the complainant. As per the estimate the following charges were collected from the complainant:

1. Development Charges	Rs. 1,80,000/-
2. Cubicle charges	Rs. 1,91,000/-
3. SL (Service Line Charges)	Rs. 42,980/-
4. SD (Security Deposit) Charges	Rs. 2,25,000/-

EE /O/Puttur in his letter replaced the word 'cubicle charges' and inserted the word as "11 KV metering arrangements" under Sub – Head -II of the above said estimate.

The Annexure of estimate shows that Data - 1 pertains to Service line charges. An estimate of Rs.42,976.67 P was prepared and rounded to Rs. 42,980/- . The Data - 2 in Annexure of estimate pertains to 11 KV metering arrangements or say cubicle charges. The estimate was prepared for Rs.2,31,539/- and out of it the cost of meter, CT, PT set etc., amounting to Rs.40,530/- was deducted and Rs.1,91,010/- was collected from the complainant.

10. The point for determination whether the respondents are entitled to collect Rs.1,91,010/- from the complainant towards cubicle charges or 11 KV metering arrangements?

According to respondents the cubicle charges mentioned in the estimate pertains to CT, PT Set and accessory material required to erect the CT, PT set including labor charges at the premises of the consumer.

On hearing the respondents and the additional submissions made by them shows that due to long practice the word 'cubicle charges' was mentioned in the place of '11 KV metering arrangements' in estimates prepared by Licensee for releasing supply to new service connections.

Clause 7 and 8 of the Regulation 04/2013 (as amended up to 1st November'2015) are relevant for releasing of supply to new service connection for any consumer which are as follows:

Clause No.7 : " Specific provision for service line charges :

- 1) *In case of applications for new connections, where such supply requires extension of line from the existing distributing main to the consumer's premises, the Distribution/Transmission Licensee shall estimate the 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 service line as per the latest cost data based on actual survey and line length. The*

Distribution/Transmission Licensee shall commence the work after receipt of estimated charges from the applicant.

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 consumer elects to purchase a meter, the Licensee shall allow the consumer to do so. The consumer has to purchase the meter as per the specifications of the Licensee. The Licensee shall test the meter purchased by the consumer at its own cost and install the meter.

If the Licensee bears such cost of the meter, it may collect meter rent as per the charges approved by the Commission under Section 45 of the Act. Alternatively, the Licensee may require the consumer to bear the full cost of meter and allied equipment and in such a case, the Licensee is not entitled to collect meter rent”.

Clause No. 8. Specific provision for Development Charges:

- 1) *The Distribution Licensee shall collect development charges subject to the provisions of Act and this Regulation and subject to such directions, orders or guidelines, the Commission may issue from time to time. The Distribution Licensee is authorized to recover from an applicant, requiring supply of electricity, expenses on normative basis towards part of upstream network cost that the Distribution Licensee has already incurred or to be incurred in extending power supply to the applicant.*
- 2) *The development charges on normative basis are arrived using shallow approach limiting the network cost to the next immediate higher voltage level. The*

Distribution Licensee shall levy development charges on per KVA/Kw basis as per the schedule (Annexure-1) enclosed.

- 3) *The Distribution Licensee shall recover full cost of transformer in case of commercial complexes, apartments and multi storied buildings where a dedicated transformer is provided while extending new LT service connections. In such cases, the Distribution Licensee is not entitled to collect development charges and shall own the transformer and maintain it. The Distribution Licensee shall not extend power supply to any other consumer from the dedicated transformer other than the consumer who has borne the full cost of transformer.*
- 4) *In case of LT supply, the responsibility of erection of distribution transformer lies with the Distribution Licensee and shall not charge cost of transformer to any consumer except those consumers mentioned in para 3 above and levy only development charges.*
- 5) *The Distribution Licensee shall not charge development charges to a consumer who seek temporary supply.*
- 6) *The Distribution Licensee is entitled to collect difference cost of development charges, in case of change of category from lower development charges category to higher development charges category. The Distribution Licensee is not entitled to collect development charges for restoring the de-rated capacity to the original level.*
- 7) *If any existing consumer requests for splitting of service into two different categories, the Distribution Licensee is not entitled to collect full development charges. The DISCOM is entitled to collect short fall amount if any resulting out of splitting. For example, a 50 KW commercial service may require splitting of his service into two categories, viz., 20 KW commercial category and 30 KW industrial category.*

8. *Subject to the provisions of Act and this Regulation and subject to such directions, orders or guidelines issued by the Commission, the Distribution Licensee shall file revised development charges, if required, for approval, once in five years along with MYT proposals”.*

The Hon’ble Commission issued a letter vide Lr. No. APERC/E-202/ DD-Dist./2016 Dt: 09.09.2016. The Hon’ble Commission in para 3 stated as:

“Under Section 45 of Electricity Act, 2003, the DISCOMs are entitled to recover the charges for electricity supplied by the DISCOM and the charges may include:

- a) A fixed charge in addition to the charge for the actual electricity supplied;*
- b) A rent or other charges in respect of any electrical meter or electrical plant provided by the Distribution Licensee”.*

The Hon’ble Commission also gave illustrations in the above said letter. Case 1 - HT connections under para 2 at page 5 is relevant for the purpose of this case.

i) Case - I:

“Extension of 11 KV service connections with a contracted demand, say 1000 KVA involving 500 meters of 11 KV line.

Charges to be collected

- a) Security deposit for 1000 KVA*
- b) Service line charges for erection of 500 meters 11 KV line*
- c) Development charges for 1000 KVA demand*
- d) No charges shall be collected for augmentation of Power Transformer capacity or for augmentation of line capacity*
- e) No charges shall be collected towards metering and allied equipment such as CT, PT, connecting cables, meter box and supporting structure of metering”.*

As per the above proceedings of the Hon'ble Commission, the Licensees is entitled to collect a) security deposit, b) service line charges c) Development charges. Licensee is not entitled to collect for augmentation of power transformer capacity or for augmentation of line capacity and towards metering and allied equipment such as CT, PT, connecting cables, meter box and supporting structure of metering.

Respondents in their letter dt: 18.07.2019 stated that the cost of meter and CT, PT Set amount of Rs.45,530/- were deducted from HT metering arrangement amount of Rs.2,31,508/- and an amount of Rs.1,19,008/- was collected from the complainant.

In the estimate, an amount of Rs.1,91,010/- is shown against the head cubicle charges. The complainant is questioning about collection of Rs.1,91,010/- under cubicle charges.

Sub-Clause (1) of Clause No. 9 of Reg. 04/2013 provides that the licensee shall submit schedule of rates before the Commission for approval on annual basis and publish the cost data book by 1st April of the year, which shall be the basis of making the initial estimate for erection of electric line or electric plant in order to extend supply.

Sub - Clause (2) of Clause No. 9 provides that the distribution, transmission licensee shall make available the copies of the cost data book to the general public on demand at a reasonable charge and also upload in their websites.

The cost data for the financial year 2013-14 published by APSPDCL at page No. 62 has given the estimate for erection of metering of LT industrial service load up to 50 to 100 HP on 11 KV side. So also the cost data for the F.Y. 2015-16 published by APSPDCL at page No. 62 has given the estimate for erection of metering of LT industrial service load up to 50 HP to 100 HP on 11KV side. The cost data was sub divided into 10 sub heads. In addition to the above, 3% S & H charges, 3% contingencies, 10% Estt & General charges and in addition to the above, service tax @ 12.36% on labor and transport and BW welfare Cess @ 1% on labor and transport are to be included

in the estimate. The cost data book also shows the sentence "estimate for erection of metering of LT service load up to 50 HP to 100 HP on 11 KV side".

Once the cost data is published, it has to be presumed that Hon'ble Commission has authorized the licensee to collect amounts under various heads for releasing of new service to the consumer. Total amount may be varied to the individual consumer due to providing various quantities of the items depending upon the need of the said individual consumer. If the complainant wants to question about the price and quantities given under various heads under the estimate in cost data book, his remedy is elsewhere and not before this forum. Complainant also cannot question the policy decisions of the licensee and compare with policies of other public corporations before this forum.

The Forum can only intervene to pass orders only if the field officers collect any amounts under any head which is not mentioned in the cost data book.

Complainant also referred the proceedings of the Hon'ble Commission dt: 29.05.2015 in his additional submissions dt: 25.06.2019. The proceeding pertains to clarification in respect of Clause. 8 of Reg. No.04/2013. Hence the same is not applicable to the present facts of this case.

Complainant's estimation was sanctioned on 22.01.2015. Complainant paid the amount on 24.01.2015. The Hon'ble Commission issued clarification on 09.09.2016. The date of payment by the complainant is prior to issuing of clarification. It is well settled law that all exemptions and remissions announced by the Government or public authority will be generally in prospective nature unless it is specifically stated that they are retrospective. So complainant who paid the amount prior to the issuing of clarification by the Hon'ble Commission under the head 11 KV metering arrangements or cubicle charges which is mentioned in Data -II of the estimate as per the cost data book issued for the F.Y. 2013-14 is not entitled to seek refund of Rs.1,91,010/-.

Complainant filed this complaint before this Forum on 30.06.2017. The estimate was sanctioned on 22.01.2015. Complainant paid the amount on 24.01.2015. Complainant is questioning

about collection of Rs.1,91,010/- under the head cubicle charges or 11 KV metering arrangement . Cause of action for the complainant arose for questioning the part of the estimate on 22.01.2015, the complaint is presented before this forum after 2 years of cause of action.

Sub - Clause (c) of Clause 10.2 of Reg. 03/2016 empowers the forum to reject the complaint at any stage when it is presented beyond two years after date of cause of action which is follows:

10.2. The forum may reject the complaint at any stage under the following circumstances:

a)

b).....

c) *In cases where the complaint has been submitted beyond two years after the date on which the cause of action has arisen;*

d).....

Provided that no complaint shall be rejected unless the complainant has been given an opportunity of being heard”.

The complaint is also liable to be rejected on the above ground.

In view of the above reasons the complaint is devoid of merits and liable to be dismissed. The point is answered accordingly.

11. In the result the complaint is dismissed.

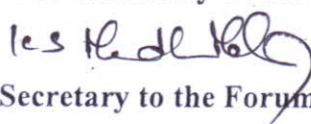
If aggrieved by this order, the Complainant may represent to the Vidyut Ombudsman, Andhra Pradesh, 3rd Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008, within 30 days from the date of receipt of this order.

This order is passed on this, the day of 3rd November'2020.

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.