

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

On this 31st day of May' 2021

C.G.No:67/2020-21/ Anantapur Circle

Present

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

Chairperson
Member (Technical)
Independent Member

Between

M/s. RDTMT Steels Pvt Ltd,
Sy.No.37,
APIIC Industrial Area,
Gollapuram Village,
Anantapur (Dt)

Complainant

AND

1. Executive Engineer/O/Hindupur
2. Superintending Engineer/O/Anantapur
3. Senior Accounts Officer/O/Anantapur
4. Chief General Manager/R&IA/Tirupati
5. Chief General Manager/O&M/Tirupati

Respondents

ORDER

1. The case of the complainant is that voltage surcharge was included in the month of June'2020 CC bill for the period from 02.5.2020 to 26.06.2020 due to HT capacitor bank suddenly stopped working. As a result MD raised 105 KVA extra for only in one 15 minute cycle period on 15.05.2020 and for this they have paid double the extra raised MD charges along with extra demand charges. SPDCL is charging Rs.12,71965.33 amount which is very huge amount to pay in this Covid-19 pandemic. Hence requested to waive the voltage surcharge.
2. Respondents No. 4 and 5 filed written submissions separately but the contents are almost similar in nature briefly they are:

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02/06

The recorded KVA of HT consumer of M/s. RD TMT Steels (India) (P) Ltd for the month of June'2020 and July'2020 are as follows:

Month/Year	CMD	RMD	Excess over and above 5000 KVA
June/2020	4950 KVA	5055 KVA	55 KVA
July/2020	4950 KVA	5175 KVA	175 KVA

Further it is submitted that the above consumer is availing power through open access from the following generators:

S. No	Name of the Generators	Contracted Capacity
1	M/s. Value Labs Ltd	1100 KW
2	M/s. Bharat Wind Forms Ltd	1200 KW
3	M/s. Trident Power Systems Ltd	1900KW
	Total	4200 KW

The consumer is availing power supply from more than one source. Hence CMD with the licensee or RMD, whichever is higher shall be basis for levying voltage surcharge as per tariff order. Accordingly voltage surcharge was levied as per condition No. 6.2 of Tariff Order issued by Hon'ble APERC. As per the interim orders issued by this forum, Consumer has paid an amount of Rs.6,68,500/- i.e. 1/4th of the amount of the disputed amount of Rs. 26,73,954/-.

- Interim orders were passed directing the respondents not to disconnect the service connection on payment of disputed 1/4 th of voltage surcharge amount of Rs.6,68,500/- (1/4th of Rs.26,73,954.36) levied for the months of June and July'2020 within 7 days from the date of receipt of this order and on payment of that amount the service shall not be disconnected during the pendency of the case before the forum for non- payment of disputed bill as per orders in I.A. No. 10/2020-21 on 25.11.2020.
- Personal hearing through video conferencing was conducted on 10.02.2021 and on 27.04.2021. Authorized representative of complainant and respondents No.4 and 5 present, heard both sides.

Authorized representative of the complainant stated that this forum with draw voltage surcharge included in the bill in the case of Sri Tirupati Steel Cast, Bangalore. So the same

analogy may be adopted in this case. He also further stated that they exceeded two slots for 105 KVA in the month of June'2020 and 3 slots in July' 2020 for 225 KVA. It was happened due to failure of capacitor banks that too in the Covid period. So levying voltage surcharge is not legally sustainable and the same may be withdrawn.

On the other hand respondents No. 4 and 5 stated that complainant exceeded CMD. He is availing power through open access. Respondents are entitled to levy voltage surcharge basing on the CMD with the licensee or RMD whichever is higher as per Condition 6.2 of Tariff Order. Hence they have raised voltage charges as per tariff order and consumer is liable to pay the amount.

5. Point for determination is whether voltage surcharge imposed on complainant for exceeding CMD in the months of June and July'2020 is sustainable?

The calculations submitted by the respondents. No. 1 and 2 to respondent No. 4 shows that demand charges are laid for sanction load and excess load and energy charges apart from that voltage surcharge in the HT CC bills for the months of June and July'2020.

Executive Engineer also submitted a technical feasibility report, in the remarks columns it is mentioned as:

“Total load on the 33KV Kalapattu industrial common feeder = (I)+(II)+(III)+(IV) =4950 KVA+4000KVA+14490 KVA+750 KVA=14190 KVA.

As per APERC guidelines, the sum total of individual contracted demand shall not exceed 20000 KVA in case of 33 KV consumers. The total load on the 33 KV Kalapattu industrial common feeder is less than 20000 KVA only.

As per APERC guidelines the consumer can avail upto 10000 KVA on common feeder as per the technical feasibility on 33 KV feeder”.

So as per the technical feasibility report of respondent No. 1, complainant can avail the excess load upto 10000 KVA on the common feeder.

The Hon'ble APERC issued proceedings No. APERC/Secy/26/2018 dt: 09.10.2018 para 2,3,4 and 5 which is as follows :

“After considering all the comments and suggestion received from the stakeholders, the Commission decided to enhance the limits of CMDs at 11 KV and 33 KV supply, subject to technical feasibility in each case.

Pursuant to the above, the Commission here by approves the following amendments to the GTCS issued vide proceedings No. Secy/01/2006 Dated:06-01-2006.

For clause 3.2.2.1, the following clause shall be substituted namely; 3.2.2.1: HT consumers intending to avail supply on common feeders:

For total contracted demand with the company and all other sources

<i>Sl.No</i>	<i>Capacity</i>	<i>Supply voltage</i>
<i>1</i>	<i>Upto 1500 KVA</i>	<i>At 11 KV</i>
<i>2</i>	<i>1501KVA to 2500 KVA</i>	<i>At 11 KV subject to technical feasibility or at 33 KV</i>
<i>3</i>	<i>2501 KVA to 5000 KVA</i>	<i>At 33 KV</i>
<i>4</i>	<i>5001 KVA to 10000 KVA</i>	<i>At 33 KV subject to technical feasibility or at 132 KV</i>
<i>5</i>		<i>At 132 KV or above, as may be decided by the company</i>

Note :

- i) While extending power supply at 33 KV for smaller demands, proper Ct ratio has to be selected.*
- ii) The DISCOMs will extend the above power supply capacities subject to technical feasibility*
- iii) The licensee shall ensure adequate conductor capacity and if augmentation of conductor capacity is required, the necessary augmentation charges may be collected from the consumers.*
- iv) The Licensee shall ensure voltage regulation within the specified limits.*
- v) (#) power supply at 132 KV and above shall be through an independent (dedicated) feeder or through loop in loop out (LILO) arrangement as decided by APTRANSCO.*

The order will come into force with effect from 09-10-2018. The Distribution Licensee shall made available the copies of these GTCS(Amendment), proceedings at all their offices down to the section level for reference by any consumer who desires to refer the same during working hours”.

So the Hon'ble Commission enhanced the limits of CMD at 11 KV and 33 KV supply subject to technical feasibility in each case. Respondent No.1 categorically issued technical feasibility report in the case that complainant can avail CMD upto 10000 KVA. Complainant in this case had exceeded 105 KVA in the month of June'2020 and 225 KVA in the month of July' 2020.

According to MRI dump data for the month of May' 2020 pertaining to the service connection, complainant exceeded MD between 6.30 A.M to 6.45 A.M on 15.05.2020. So also as per MRI Dump Data for the month of June'2020 also complainant exceeded MD of 225 KVA between 18.00 to 18.15 Hrs on 03.6.2020. So according to MRI dump data only on 2 occasions of 15 minutes slot complainant exceeded CMD in the months of May and June'2020. According to authorized representative of complainant this was happened due to failure of capacitor banks and not due to using of supply at voltage different from the declared voltage.

It is relevant to refer Clause No. 12.3. of GTCS which is as follows :

12.3: Exceeding Contracted Load/Demand:

12.3.1 : *“No HT consumer shall connect any additional load in the existing HT service connection installation without obtaining the approvals of the Chief Electrical Inspector to Government, Andhra Pradesh, as required under Rule 63 of the Indian electricity Rules, 1956 and without approval by the Company and without signing of the Company's test report. Failure to observe the above requirements shall render power supply liable to be disconnected summarily and the power supply shall remain disconnected till the un authorized load is removed or regularized (by obtaining approval of the Chief Electrical Inspector to Government, approval of the company and signing of the company test report by the consumer,) whichever is earlier. The reconnection will be done after inspection by the designated officer and after he is satisfied of compliance of these provisions.*

12.3.2: *If at any time the maximum demand of an HT consumer exceeds his contracted demand or LT consumer exceeds the Contracted load without prior approval of the company, the consumer shall be liable to compensate the company for all damages occasioned to its equipment or machinery if any, by reason of this default, and shall also be liable to pay the charges payable by him on account of such increase in demand or load and penalty as prescribed by the Commission from to time, without prejudice to this right the company may also cause the supply to consumer to be disconnected”.*

The bills issued in this case for the months of June and July’2020 shows that respondents already levied additional charges for the excess of RMD over CMD as per Condition.6.6 of Tariff Order. No material is placed before this forum by the licensee that there was any damage to the machinery or equipment on account of exceeding RMD over CMD by the consumer.

The Condition No.6.2 of Tariff Order is as follows:

Voltage Surcharge:

“HT Consumers who are now getting supply at voltage different from the declared voltages and who want to continue taking supply at the same voltage will be charged as per the rates indicted below:

S.No.	Contracted Demand with Licensee	Voltage at which consumer is availing supply (in KV)	Voltage at which consumer is availing supply (in KV)	Rates %extra over the normal rates	
				Demand Charges	Energy Charges
A) HT Consumers availing supply through common feeders					
1	2501 KVA to 5000 KVA	33	11	12%	10%
2	5000 KVA to 10000 KVA	33	11	12%	10%
3	Above 10000 KVA	132 or 220	33 or below	12%	10%
B) HT consumers availing supply through independent feeders					
1	3001 KVA to	33 or Above	11	12%	10%

	20000 KVA				
2	Above 20000 KVA	132 to 220	11	12%	10%

Note :

In case of consumers who are having supply arrangements from more than one source, CMD with the Licensee or RMD, whichever is higher shall be the basis for levying voltage surcharge.

The Voltage surcharge is applicable to only existing services and licensees shall not release new services at less than specified voltage corresponding to contracted demand”.

Condition 6.2 of the Tariff Order for the Financial Year- 2020-21 in respect of voltage surcharge is applicable when HT consumers are getting supply at voltage different from the declared voltage and who want to continue supply at the same voltage. No material is placed by the licensee to show that any notice was issued to the complainant stating that he is getting voltage different from the declared voltage and whether he wants to continue the supply at the same voltage.

It is the specific case of the complainant that only due to failure of capacitor bank the CMD was exceeded in a slot of 15 minutes on a day each in the month of June and July'2020. So the Condition 6.2 of Tariff Order for the F.Y. 2020-21 does not apply to the facts of this case.

The then Hon'ble Ombudsman in the case between M/s. Sri Tirupati Steel Cast Limited Hindupur, Anantapur Dt. vs SAO/Aanantapur and others in Appeal No. 38/2015-16 dt: 24.08.2016 set aside the orders of this forum and ordered for withdrawal of the voltage surcharge levied. The then Hon'ble Ombudsman also relied on the decision of the Hon'ble High Court ^{of A.P.} in writ petition No. 5310 of 2012.

His Lordship ^{Sr.} Justice C.V. Nagarjuna Reddy held in W.P.No. 5310 dt: 27.08.2015 as :

“It is not pleaded case of the petitioners that the CMD of respondent No.3 was higher than 5000 KVA at any given point of time. Its CMD remained at 4,300 KVA. Therefore, ex facie, respondent No.3 is not liable to pay extra rates towards voltage surcharge merely because in the given months, the RMD exceeded its CMD.

However, to cover such eventuality, Clause-6 of GTCS has provided for payment of excess charges on demand as well as energy charges. As per the said clause :

(1) if the RMD of the consumer exceeds its CMD between 100 to 120%, it is liable to pay two times the normal demand charges, while it is permitted to pay the normal energy charges,

2)if the RMD of the consumer exceeds 120% and up to 200%, it shall pay two times the normal demand charges and 1 time the normal energy charges and

3)if the RMD of the consumer exceeds more than 200%, it is liable to pay two times the normal demand charges and two times the normal energy charges. Clause-6 does not envisage that these extra charges are in addition to the voltage surcharge that is payable under Clause-1 thereof. The voltage surcharge being penal in nature, the tariff conditions need to be strictly construed. Upon such construction, I am of the opinion that in the absence of express provision that the consumer whose RMD exceeds its CMD is liable to pay Voltage Surcharge under Clause-1 of GTCS besides paying extra charges for exceeding such demand under Clause-6, respondent No.3 is not liable to pay Voltage Surcharge”.

In this case also it is not the case of the respondents that the CMD of the complainant is higher than 5000 KVA at any point of time. The CMD of the complainant is remained at 4950 KVA only. Merely because on one occasion in 15 Minutes slot in month exceeded RMD due to technical problems. Respondents are not entitled to collect voltage surcharge when respondents are collecting additional charges for exceeding RMD as per Condition 6.6 of Tariff Order.

“Condition 6.6 of Tariff Order is as follows:

“Additional charges for maximum demand in excess of the contracted demand:

If in any month the recorded Maximum Demand (RMD) of the consumer exceeds his Contracted Maximum Demand (CMD) with Licensee, the consumer will pay the following charges on excess demand and on energy calculated in proportion to the excess demand.

RMD	Demand Charges on Excess Demand	Energy Charges on Excess Energy
100 to 120% of CMD	2 times of normal charge	Normal

<i>Above 120% and upto 200% of CMD</i>	<i>2 times of normal charge</i>	<i>1.5 times of normal charge</i>
<i>More than 200% of CMD</i>	<i>2 times of normal charge</i>	<i>2 times of normal charge</i>
<i>Excess demand and energy charges shall be computed as follows:</i>		
<i>Excess demand =(RMD-CMD) if RMD is more than CMD with Licensee.</i>		
<i>Excess Energy =(excess demand/RMD) X Recorded Energy”</i>		

Relying upon the above cited decision and facts of this case, the contention of respondents that as complainant exceeded CMD in the months of May'2020 and June'2020 and it is liable to pay voltage surcharge as per Condition 6.2 of Tariff Order in addition to the payment of amount as per condition 6.6 of Tariff Order is not tenable and legally sustainable. Respondents are not entitled to collect voltage surcharge in addition to the amount levied as provided in Condition 6.6 of Tariff order. The point answered accordingly.

6. In the result respondents are directed to withdraw voltage surcharge levied on the service No. ATP 438 in the month of June'2020 and July'2020 and issue revised bill within 15 days from the date of receipt of this order and submit compliance report within 15 days thereon. The amount paid by the complainant as per the orders of this form in IA No.10/2020-21 if any shall be adjusted towards future bills.

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 31st May'2021.

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 (Chief General Manager (O&M)/ Operation)/ CGRF/ APSPDCL/
Tirupati.

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.