

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

On this the 10th day of August ' 2021

C.G.No.02/2021-22/Tirupati Circle

Present

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

Chairperson
Member (Technical)
Member (Finance)
Independent Member

Between

K. Kodandapani Reddy,
D.No.1-101,
Nadavaluru,
R.C. Puram (M),
Chittoor Dt.

Complainant

AND

1. Deputy Executive Engineer/O/Puttur
2.Executive Engineer/O/Puttur
3. Superintending Engineer/O/Tirupati

Respondents

ORDER

1. The case of the complainant is that he has applied for 3 phase connection (not a dedicated line) on 14.12.2020. On request of AE, he has applied for 30 KW and paid for connection and submitted on 06.01.2021 i.e. before 27.01.2021 proceedings from APSPDCL. His case did not come under the above said proceedings as his house is not a commercial building, apartment and multi storied building and he had applied for LT domestic connection to his house. Clause.8 (4) of the proceedings of Hon'ble APERC clearly says that DISCOMS shall not charge the cost of Distribution transformer for LT domestic line except for Clause. 8(3) of APERC.

CT meter was commissioned and he has been using power supply from 09.02.2021, even then AE never informed about transformer charges, when he asked monthly bill on 22.04.2021 as the bill was not given from the date of releasing of supply. Then he was informed that he has to pay for the Distribution transformer and on 23.04.2021 without any information or notice disconnected the power supply. AE has given demand notice and charged Rs.37,181/- for 40 Mts though there is a 3 phase line and pole within 12 Mts. He has been supplied service 3 ½ core cable of 15 Mts. He had a telephonic conversation with AE/O/Rayalacheruvu who stated that there is no need to pay for Distribution transformer. Lineman, Nadavaluru tried to remove CT meter and service connection to show higher officials that they have not given any new connection.

2. Executive Engineer/O/Puttur (Respondent No.2) alone filed written submission stating that estimate was prepared and submitted for sanction for erection of 1 No. 100 KVA Distribution Transformer in place of 3 No's 16 KVA Distribution Transformers. The villagers given a written complaint not to execute the work stating that they never asked for execution of the said work. The Distribution Transformer was proposed in the opposite side of the complainant's building in order to escape for payment of service line charges for 445 mts of 11 KV line by the complainant. If this work was executed and if the complainant registers for power connection, he has to pay the service line charges. He had given much more pressure to the then officers. Complainant has registered for power connection on 21.12.2020. Accordingly an estimate was prepared for releasing of supply by erecting 63 KVA Distribution Transformer and 40 mts of 11 KV line and sanctioned on 04.01.2021. A demand notice was issued to the complainant on 04.01.2021. Complainant had paid the amount on 12.01.2021. As per the demand

notice, the cost of Distribution Transformer and allied equipment was exempted as per Clause. 8(3) of Reg. 04 of 2013 of Hon'ble APERC. Hon'ble APERC issued proceedings and basing on that a memo was issued by APSPDCL dt:27.01.2021 to the effect that all the estimates who has not paid up to 07.01.2021 though they are sanctioned have to be re-triggered. Accordingly revised estimate was prepared and demand notice issued to the complainant for Rs.1,46,569/-. On 07.02.2021 complainant requested to provide supply for testing of equipment in the building and given oral submission that he will utilize the supply after completion of all departmental rules in vogue. On 09.02.2021 the power connection was given and informed to pay the amount for cost of Distribution Transformer and allied equipment. After two months complainant refused to pay the amounts then only the power connection was disconnected. The power connection was given as the erected 100 KVA was idle and high pressure to the AE/O/Royalacheruvu. The supply to the complainant cannot be given as the Distribution Transformer is to feed the loads of the villagers but not to the complainant. Panchayat Secretary, Nadavaluru has given information that they have not given any approval for the plan for construction of the building by the complainant.

Complainant has to pay cost of Distribution Transformer as per the proceedings of APSPDCL if the dedicated Distribution Transformer is provided to the premises. In this case dedicated Distribution Transformer was proposed; hence complainant has to pay the cost of Distribution Transformer. If the complainant submits approved plan, then procedure will be followed as per the memo issued by APSPDCL until then power supply could not be restored.

3. After hearing the parties, EE/O/Puttur was asked to give clarification on some points. EE/O/Puttur issued clarifications stating that if the consumer applies for load above 20 KW or more than 5 No's services, the cost of

dedicated Distribution Transformer including DTR structure is to be collected as per Point No.iii, of the memo issued by CGM/O/SPDCL/TPT/EE/C/F.Reg.4/D.No.100/21 Dt: 27.01.2021. The said order was given with effect from 08.01.2021. There is no spare capacity in existing 100 KVA DTR. The contracted load is 240.49 and RMD recorded in the meter is 190.91 as all those loads will not be loaded at a time. Hence the existing DTR become sufficient to cater the present loads, but not 30 KW load of the complainant. The approval was given to the complainant by TUDA as per DSBA No. 254/G2 /2009 Dt: 08.06.2009 and the validity of the approval is for 24 months only.

4. After hearing both parties on 19.07.2021, EE/O/Puttur submitted another written submission stating that there is no kitchen in the premises and it is mandatory for having kitchen to release the service under domestic category. There are 4 bed rooms in ground floor, 4 bed rooms in Ist floor and one bed room in IInd floor.
5. Complainant submitted written arguments and also furnished material in respect of definition of multistoried building.

Complainant also sent another mail stating that kitchen is existing in the old building. His plea from the beginning is that he is requesting service connection for total campus after surrendering old service of 6 KW. He further stated that respondents are raising different points in the hearings. On 02.07.2021 hearing, respondents raised a point on multistoried buildings and on 17.06.2021 raised point about existence of kitchen. Respondents are raising different issues on different dates of hearing only on the ground that he refused to pay bribe to AE for release of new service connection and now he is residing in rental house.

6. Personal hearing though video conferencing was conducted on 17.06.2021, through telephone conversation on 02.07.2021 and through

video conferencing on 19.07.2021. Both parties reiterated their contentions mentioned in their pleadings. Both parties did not adduce any oral evidence.

7. Complainant in his additional written submission submitted through mail Dt: 24.07.2021 stated that though service connection was released by providing CT meter the same was disconnected as he refused to give bribe to the AE concerned. If any officer demanded bribe from him, complainant ought to have present a written complaint immediately to the CMD of the Licensee, so that a stern action can be taken against the delinquent officer.
8. The Points for determination are:

1. Whether the building of the complainant is not a multi storied building and is entitled to domestic service connection without paying DTR cost as per Clause. 8(4) of Reg. 04/2013?
2. Whether complainant is entitled to have multiple domestic services in the same premises without having separate kitchen for each establishment?

The contents of written submission of respondent No.2 shows that complainant brought pressures on the then officers to erect 100 KVA DTR on the opposite side of the complainant's building so as to escape the service line charges of 445 mts of 11 KV line by replacing 3No's 16 KVA DTRS, the villagers opposed for the proposal of erection of 100 KVA DTR and also submitted a representation to the concerned authorities in spandana. The written submission of respondent No.2 shows that 100 KVA DTR was erected. So the concerned officers did not take the representation of the villagers into consideration and erected 100 KVA DTR opposite to the complainant's building.)

If 100 KVA DTR is erected only to help any individual consumer without necessity to the other villagers against the prescribed procedure, then the officer who is responsible for this illegal act is also liable for disciplinary action. Respondent No.2 ought to have reported the matter to the Licensee so that it can take appropriate action against the erring officers for not following the prescribed procedure in erecting 100 KVA DTR. But Respondents cannot be permitted to say that service connection will not be given to that consumer from that DTR only on the ground that Distribution Transformer was erected for the benefit of that consumer against rules when there is sufficient capacity of load to cater the needs of power supply to that consumer.

The written submission of respondent.No.2 further shows that complainant has requested to give the supply for testing of equipment in the building by representing orally that he will utilize supply only after completion of departmental rules in vogue. On 09.02.2021 the power connection was given under 100 KVA DTR which was idle due to high pressure on AE/O/Rayalacheruvu. Complainant was informed to pay the amounts for cost of DTR and allied equipment. After 2 months complainant refused to pay the amount, then only power connection was disconnected. Complainant cannot be given power supply under 100 KVA DTR as this DTR is to feed the loads of the villagers but not to the complainant.

No provision is placed by respondent No.2 to show that power supply can be given for testing the equipment in the building of the consumer and to allow the power supply for about two months without releasing service connection. The procedure for providing power supply to the consumer is not followed in this case. The erring officers are liable for disciplinary action for providing power supply only for testing the equipment in the building without releasing service connection in full

shape. So also consumer is not entitled to claim right over the power supply, if the power supply was released against the procedure by some officers. The licensee is liable only for legitimate actions of its employees done in discharging their legitimate duties but not otherwise.

Respondent No.2 in his clarification report Dt: 15.07.2021 stated that there is no space in existing 100 KVA DTR as the contracted load is 240.49 and RMD recorded in the meter is 190.91. He further stated that since all the above loads will not be loaded at a time, the existing DTR capacity became sufficient to cater the present loads but not to load another 30 KW load of complainant.

Respondent No. 2 further stated in his clarification report that complainant is liable to pay cost of DTR as per point No.iii the orders of CGM/O/SPDCL/TPT/EE/C/F. Reg. 4/ D. No. 100/21 Dt: 27.01.2021. The same is as follows:

Amounts to be collected from the applicants for new service connections/additional loads		
Category	Amounts to be collected	Exemptions/Remarks
All LT categories except Agriculture	i) Cost of distribution Transformer including DTR structure put together (or) development charges whichever is higher ii) Cost of 11 KV line iii) Cost of LT line iv) Security Deposit	i) Cost of meter and allied metering equipment shall be borne by the Discom ii) The consumer applies for load below 20 KW for multistoried building, service to be released in the existing DTR, unless consumer applies for dedicated DTR and pays the requisite charges. iii) The consumer applies for load above 20 KW or more than 5 No's services, cost of dedicated Distribution Transformer including DTR structure to be collected.

Subsequently CGM issued another letter Memo. No. CGM/O/SPDCL /TPT/EE/C/F.Reg.4/D.No.147/21 dt: 02.02.2021 which is as follows:

"In superseding the instructions issued vide this office ref No. (8, Memo No. CGM/O/SPDCL/TPT/EE/C/F/Reg.4 /D.No.100/21 dt: 27.01.2021) cited to the proceedings issued by Hon'ble APERC, (all Superintending Engineers/Operation and Executive Engineers/Operation are hereby directed to implement the guidelines and follow the APERC instructions strictly".

So, the proceedings issued dt:27.01.2021 was superseded by the memo dt: 02.02.2021. So field officers should not collect DTR cost as per point No. iii in the Memo dt:27.01.2021 . Respondent No.2 represented that though memo was issued on 02.02.2021, the SAP application was not amended. Hence all the estimates who have not paid prior to 07.01.2021 though sanctioned have been retriggered, hence revised estimate was prepared in this case. It was brought to the notice of this forum at the time of hearing that at present amendment was also carried out in the SAP application. So respondents are not permitted to collect cost of DTR from the consumer on the ground that he applied for load above 20 KW or more than 5 services.

Points No.1 &2:

The contention of the respondent No.2 is that the building of the complainant herein is a multi- storied building. Licensee is permitted to collect DTR cost for commercial complexes, apartments and multi storied buildings where dedicated DTRs are provided without height restriction as per Clause 8(3) of Reg. 04 of 2013 in view of proceedings of Hon'ble APERC dt: 08.01.2021.

The Hon'ble APERC in para 5 and 6 of the above referred proceedings mentioned as:

“The guidelines issued in para 3 of ref. No.2 are therefore hereby revoked consequently, the directions for implementation of said guidelines communicated vide ref. 3 to 5 are also withdrawn.

DISCOMs are permitted to collect the cost of dedicated Distribution transformer where ever they are provided as per Clause. 8(3) of Reg. 04 of 2013 irrespective of height of category of the building included under the said clause”.

The complainant submitted a copy of G.O. MS. No. 119 issued by Municipal Administration and Urban development (M) Department dt: 28.03.2017, model building bye -laws, definitions, e - paper of The Economic Times and G. Shyam Sundar lists mandatory norms for constructing multi storey building in Tamil Nadu and contended that multi storey building means a building having above 4 storey's or a building exceeding 15 mts or more in height (without stilt) and 17.5 M (including stilt) . He also argued that his building is G+1 and one room in 2nd floor below the water tank and the room in 2nd floor is exempted in calculating the height of the building, his building height is 9 Mts/12.5 Mts including head room and water tank . So his building will not come under the purview of multi storied building.

The definition of multi storied building is not provided in Reg. 04 of 2013.

The Hon'ble Commission in its letter dt: 03.10.2016 in para 12 stated that 15 mts height is taken as the reference level to differentiate between multi storied building and high rise building. The guidelines issued in that letter were withdrawn by the Hon'ble Commission in proceedings Dt: 08.01.2021 referred above. So now DISCOMS are permitted to collect cost of dedicated DTR where ever they are provided irrespective of height of category of the building as per Clause.8(3) of Reg. 4 of 2013. So as per the above said proceedings, DISCOMs are permitted to collect cost of dedicated DTR where ever they are provided irrespective of height of the category of the building.

According to respondents vide letter dt:22.07.2021, there are 9 bed rooms in the building i.e. 4 each in ground floor and first floor and one in 2nd floor and no kitchen. Complainant did not dispute this fact in his additional submission submitted through mail. So the building of the complainant is having G+ 2 floors.

The meaning of multi storied building in Google search is:

“Adj. 1. Multistoried- having more than one store .multistory, multistory, high-rise-used of building of many stories equipped with elevators; tall; “avenues lined with high-rise apartment buildings”

A single – storey building is building consisting of a ground storey only... A multi-storey building is a building that has multiple storey's, and typically contains vertical circulation in the form of ramps , stairs and lifts ? “

Proceedings before this forum are summary in nature. This forum has got limited jurisdiction only. This forum is not competent to define or interpret the words mentioned in the Regulations issued by the Hon'ble Commission basing on the definitions of multi storied buildings given in other Regulations or Acts. In the absence of definition of multistoried building in Reg. 04/2013, this forum is only competent to take the definition provided in the dictionary and as per the dictionary the meaning of multi storied building is of a building. : **having more than two stories a multi-storey apartment building.**

So the contention of the complainant that his building will not come under the definition of multi storied building is not tenable .We are of the view that the building of complainant comes under the definition of multi storied building. Hence DISCOMs are permitted to collect cost of dedicated DTR if provided to the complainant irrespective of height of the building as per the proceedings of Hon'ble APERC dt: 08.01.2021.

The contention of the complainant is that he has originally applied for release of service connection with a load of 50 KW and as per the advice of AE

concerned; he revised his application for 30 KW. He has taken demand draft and handed over it to the respondents on 06.01.2021. The proceedings were issued by Hon'ble APERC on 08.01.2021. The proceedings issued by licensee dt: 27.01.2021 is not applicable to him. He revised his application only as per the advice of AE reducing the connected load to 30 KW . He is not liable to pay cost of DTR as per Clause. 8(3) of Reg. 04 of 2013 and he is entitled for release of service connection as per Clause. 8(4) of Reg. 04 of 2013.

On the other hand the contention of respondents is that complainant applied for release of service connection on 21.12.2020. The first estimate was prepared for Rs.79,181/- (As per Annexure-23- development charges Rs.36,000/-, service line charges Rs.37,181/- and security deposit charges Rs.6,000/-). The demand draft was credited to their account on 12.01.2021. So the amount paid by the complainant by way of demand draft dt : 06.01.2021 is credited to the account of licensee on 12.1.2021 . The date of receipt of the amount is relevant for consideration of amounts to be collected by the licensee as per the regulations applicable as on that date. So, in this case licensee is empowered to collect the amounts as per the proceeding dt : 08.01.2021 issued by the Hon'ble APERC though complainant has taken the demand draft dt: 06.01.2021.

Complainant also furnished copy of telephone conversation between him and AE concerned who said to have advised the complainant to revise his application for connected load of 30 KW instead of 50 KW. The conversation said to have been taken place on 17.12.2020. The conversation is prior to the date of issuing of proceedings by Hon'ble APERC dt: 08.01.2021. Prior to the above said proceedings, DISCOMS are not collecting DTR cost from the multi storied buildings, complexes and apartments having height of 15 or less than 15 mts . So AE might have advised the complainant that if he applies for service connection for 30 KW load instead of 50 KW service can be provided from the existing DTR without collecting cost of DTR. Any suggestions or advises given

by the field officers are subject to the regulations issued by Hon'ble Commission and GTCS. If the advises are given against any provisions of the regulations or GTCS, Licenses is not bound by them. Consumers have to pay the amounts as per the rules and regulations applicable as on that date. So the contention of the complainant that as AE concerned advised that in case if he applied for connected load of 30 KW, he need not pay cost of DTR, so he is not liable to pay cost of DTR is also not tenable.

The other contention raised by the respondent No.2 in further hearing is that complainant applied for release of service under domestic category without having kitchen. So complainant is not entitled for release of service connection.

On the other hand the contention of the complainant is that he is having another service connection with 6 KW in the same premises where kitchen is located and now he applied for service with 30 KW and he is intending to surrender the service connection with 6 KW. Complainant admitted that there is no separate kitchen for the premises for which he has now applied for release of service connection. If so, what is the necessity for the complainant to apply for another service connection with 30 KW load and he could have applied for additional load of 24 KW instead of applying for new service connection.

The relevant provision for definition of separate establishment is provided in Clause No.3.5 of GTCS. As per Clause. 3.5.1(iv) of GTCS households having separate kitchen is a separate establishment under domestic category.

Clause.3.5.3 of GTCS empowers the licensee where different service connections situated within single premises by splitting the units, the licensee can treat such multiple connections existing in the single premises as a single service connection and charge the total consumption of all the consumers at the appropriate tariff applicable for a single service connection. Notice shall be issued to the consumers by any authorized officer of the licensee asking them to

furnish a single application for all such services and to pay required charges for merging the service into a single service.

The proceedings issued by the Hon'ble Commission dt: 08.01.2021 is in respect of collecting of cost of dedicated DTR provided to the multi storied buildings etc., and not relating to the category of release of service. Field officers are expected to inspect the premises and if they found there is no kitchen in the premises, they should have returned the application and advice the consumer to apply for service under correct category. But once they process the application, prepared the estimate, served demand notice and after payment of the demand notice amount by the consumer, officers are not expected to raise the question of category of the service and also not permitted to refuse to release the service connection. If any consumer by misrepresentation obtains a service connection under a wrong category, the licensee has right to inspect the premises and convert the category and also entitled to impose penalty after following the due procedure. So, once consumer pays the amount as per the demand notice, field officers have no right to refuse to release the service connection.

According to the respondents, complainant refused to pay demand notice amount. Respondents furnished copy of demand notice in Annexure- 35 and 36. It was not mentioned in the demand notice that it is issued on account of revised estimate. The first page of demand notice is in printed pro-forma not fully filled up. Date of notice is not mentioned. No documentary evidence is furnished to show that the said demand notice is served on the complainant. It is simply mentioned in the second page of the demand notice that complainant is liable to pay Rs.1,46,569/-. In 1st page of the notice, service line charges are mentioned as Rs.2,19,750/- the details for arriving this figure is given in Annexure. 32 to 34 but it is not mentioned in the demand notice whether these annexures are enclosed to it or not. Simply mentioning the total amount in the column of service line charges without furnishing the details on the pretest that

it is a computerized pro-forma notice is not at all valid. Consumer should be furnished with all the details of estimate, so that he/she can have the details of the amount payable under each head for obtaining service connections. Once service was released, respondents are not expected to disconnect the service connection on the ground that service was released temporarily for testing or it was released irregularly without giving notice and opportunity to the consumer to furnish the objections for disconnection. If estimate was prepared erroneously and service was released, respondents have got right to revise the estimate and serve notice on the complainant and service can be disconnected only after due notice. Disconnecting the service unilaterally without notice is not legally sustainable and it amounts to unfair trade practice.

Respondents revised the estimate for releasing of service of 30 KW load by proposing a dedicated DTR of 63 KVA. The sketch filed by the respondent No.2 shows that they are proposing to erect the DTR outside the premises of complainant in public place. Respondent No.2 did not show any authority that they can erect dedicated DTR in a public place for a single consumer. Generally dedicated DTRs will be provided in the premises of consumer only but not in the public place. Once a DTR is erected in a public place, all the nearby consumers have got right to get the service connection from that DTR and it cannot be exclusively given to a single consumer. So the proposal put forth by respondent No.2 for erecting DTR in the public place is also not correct.

The contention of the complainant that he has applied for release of service connection not under dedicated DTR. So he is not liable to pay DTR cost is also not correct. When any consumer applied for release of service connection for commercial complexes, apartments and multi storied building, under common DTR, the licensee has got discretion either to provide dedicated DTR or under common DTR depending upon the feasibility.

The facts of this case shows that though complainant applied for release of service connection in December'2020 and paid the estimated demanded

amount by way of demand draft dt: 06.01.2021, but it was credited to the account of licensee after issuing of proceedings by the Hon'ble Commission dt: 08.01.2021. Hence the proceedings dt: 08.01.2021 issued by Hon'ble Commission are applicable for releasing of this service.

In view of the above facts, respondents before revising estimate ought to have issued notice to the complainant to exercise option whether he intended to have service connection under dedicated DTR, whether he is intending to surrender already existing domestic service connection of 6 KW as multiple domestic service connections could not be released in the same premises when there are no separate kitchens and after receipt of reply only respondents ought to have decided whether domestic service connection can be given from the existing DTR by enhancing its capacity or erecting more transformers at different places in the village to distribute the load to avoid distribution losses or a dedicated DTR is to be provided.

Respondents prepared revised estimate basing on the point No.iii of the Memo issued by CGM/O/SPDCL dt : 27.01.2021 though it was superseded by the memo issued by CGM/O/SPDCL Dt: 02.02.2021, hence it is not valid. So also the proposal of erecting dedicated DTR in a public place to one consumer is not correct.

In the absence of above said information, the forum is of the view that an opportunity should be given to the complainant to give in writing whether he wants a domestic service connection after surrendering the existing service connection or he wants new additional domestic service connection with 30 KW load and whether he is intending to have a dedicated DTR in his premises. Respondents after receipt of the intention of the complainant in writing shall decide whether new domestic service shall be released or to enhance the load of existing service connection and whether the load of the complainant can be accommodated by enhancing the capacity of existing transformer or erecting more transformers at different places in the village to distribute the load or

dedicated transformer is to be provided in the premises of the complainant and there after release the service connection as per the prescribed procedure.

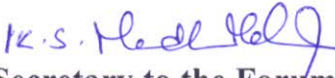
9. In view of the above reasons, Respondents are directed to issue notice on the above lines to the complainant within 7 days from the date of receipt of this order by giving a time of 7 days to submit his option and thereafter decide the feasibility of providing service connection from the existing DTR by enhancing its capacity or erecting more transformers in different places of the village to distribute the load and if it is not possible, then to release service connection by providing dedicated transformer in the premises of the complainant as per Regulation.04 of 2013 and proceedings dt: 08.01.2021 of Hon'ble APERC in accordance with prescribed procedure.

Licensee is also requested to conduct inquiry in this case and to take appropriate action, so that this type of lapses will not occur in future.

10. Accordingly the complaint is disposed off.

Sd/- Sd/- Sd/- Sd/-
Member (Technical) Member (Finance) Independent Member Chairperson

Forwarded By Order


Secretary to the Forum

This order is passed on this, the day of 10th August'2021

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.

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/ Tiruati.

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.