

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

On this the 14th day of September'2021

C.G. No.7/ 2021-22/Tirupati Circle

Present

Sri. Dr. A. Jagadeesh Chandra Rao
Sri. R.M.M. Baig
Sri. Dr. R. Surendra Kumar

Chairperson
Member (Finance)
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. Executive Engineer/OAPSPDCL/ Puttur Respondents
2. Superintending Engineer O/Tirupati
3. Chief General Manager/O&M/Tirupati

ORDER

1. Complainant filed this complaint for refund of service line charges of Rs.42,976/- and development charges with interest collected for the service No. TPT-2113.
2. Complainant sent two written complaints dt: 01.06.2021 and 02.06.2021 in one cover which were received by this forum on 10.06.2021.
3. The contention of the complainant is that licensee collected Rs.42,976/- towards service line charges. Hon'ble APERC issued clarificatory order Dt: 09.09.2016 stating that no charges for HT line are to be collected for

DESPATCHED

DATE

14/9
The Dist 180 Mts but his line is only 100 Mts. The order dt: 09.09.2016 is

only clarificatory but not the orders to be implemented from 09.09.2016 .So he is entitled for refund of that amount with interest or declare the ownership of line to him as the cost was borne by him and also direct the licensee to give some incentives in their monthly bills as their asset line is used by the licensee for doing their business retail sale of electricity, especially keeping in view of Sec. 61(b) , 61(d) and 62(d) of Electricity Act, 2003.

Electricity Act, 2003 or guidelines of APERC do not authorize the DISCOM to inflate and load these expenses reasonably incurred for erection of line with the percentages under different nomenclatures. DISCOMs never review the estimates with actual work executed. Hence directions may be given to the licensee to review the estimates with actual. The estimates prepared by the licensee are in contravention of Sec.46 of Electricity Act, 2003.

DISCOM collected Rs.4,13,990/- towards cost of extension of power supply to them but only Rs.2,74,520/ - was spent by DISCOM and thus collected an excess amount of Rs.1,39,470/-. He had written several letters to SE/O/Tirupati for refund but there was no reply. DISCOM raises a demand for payment of cost of dismantlement of line and its transport to stores as if that line is erected with their own funds, but actually the line is erected with the funds of the consumer. Either Electricity Act, 2003 or APERC does not specifically say about the

ownership of line as they felt that consumer is the owner of the line. But DISCOMs are saying that it is the owner of the line.

4. Respondent.No.3 filed written submission stating that complainant applied for service under HT Cat -1 150 KVA at 11 KV potential in the name of M/s. Ajanthy Foods, Smt. Ganta. Padma Mittakandriga (V) Nindra (M). The estimate was sanctioned and amounts were collected in the financial year 2014-15. They are :

Development Charges - Rs.1,80,000/- (Rs.1200 per KVA x 150 KVA)

Cubicle Charges - Rs.1,91,010/-

Service line charges - Rs.40,980/-

SD charges - Rs.2,25,000/-
(@ Rs.500/- per KVA for three shifts i.e. 500x
150x3)

The development charges paid by the consumer are not refundable as per Clause. 5.3.3.1 of GTCS. Licensee is liable to pay interest in accordance with Reg. 06 of 2004(Security Deposit) issued by Hon'ble APERC.

Service line charges of Rs. 42,980/- is for 105 Mts of KV line with 55 sqmm. Service line charges shall be payable by the consumer for the release of new connection / additional load under both LT and HT categories at the rates notified by the company in accordance with regulations /orders issued by the Commission from time to time as per Clause 5.3.2.1. These charges are not refundable.

5. Complainant approached this forum and Hon'ble Ombudsman many times for refund of cubicle charges and development charges. The Hon'ble APERC issued proceedings not to collect cost of supporting structure of CTPT sets on 09.09.2016 but not mentioned whether it is prospective or retrospective. This forum dismissed the case stating that estimate was sanctioned on 22.01.2015 and the amounts were paid on 24.01.2015, the case belongs to F.Y.2014-15.

On 29.12.2020 Hon'ble Ombudsman ordered in favor of complainant to refund the cubicle charges. Hence refunded the cubicle charges. But not mentioned about development charges.

6. Complainant again filed this complaint for the same estimate for refund of development charges after completion of 5 years i.e. not within the time period of 2 years to file case before the forum and also lodging complaint separately.
7. EE/O/ Puttur also filed written submission separately on similar lines.
8. Personal hearing through video conferencing was conducted on 26.08.2021. Complainant present. General Manager /Commercial/SPDCL/Tirupati and EE/O/Puttur present. Heard both sides. No oral evidence is adduced.
9. Complainant also sent another letter through whatsapp App stating that directions may be issued to officers of the licensee to give specific reply on each point of his grievance.
10. The points for determination are:

1. Whether complainant is entitled for refund of development charges of Rs.1,80,000/- paid on 24.01.2015?
2. Whether complainant is entitled for refund of service line charges of Rs.42,980/- paid on 24.01.2015?
3. Whether successive complaints for refund of the amounts paid by the complainant for the same service number by splitting cause of action are maintainable before the forum?

Points No. 1 and 2:

Complainant in both written complaints questioned the right of DISCOM in collecting the amounts and that is against the provisions of the Act. This forum has got limited powers, it can intervene only if licensee collects any amount other than the amounts permitted by the Hon'ble APERC or contravenes any provisions of GTCS or Regulations given by the Hon'ble Commission from time to time.

Clause.6 of Reg. 04 of 2013 empowers the licensee's right to recover expenditure. Specific provisions for service line charges and development charges are provided in Clause 7 and 8 of Reg. 04 of 2013 respectively.

The relevant provisions are given in Sub- Clause (1) of Clause 7 and Sub- Clause (2) of Clause. 8 and they are as follows:

7 (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.

8 (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-I) enclosed”.

The above clauses authorize the licensee to collect service line charges and development charges from the consumers.

Charges to be paid for new connection/ additional load are also provided in Clause. No. 5.3 of GTCS which are as follows:

5.3.1: *The security deposit payable by a consumer for the electricity supplied /to be supplied and the consequences of non -payment thereof, interest payable thereon etc., shall be in accordance with the APERC (Security Deposit) Reg. 2004 (No.6 of 2004)*

5.3.2: Service Line Charges

5.3.2.1: *The Service line charges payable by the consumers for release of new connection/ additional load under both LT and HT categories shall be levied at the rates notified by the company in accordance*

with regulations /orders issued by the Commission from time to time These charges shall be paid by the consumer in advance failing which the work for extension or supply shall not be taken up.

These charges are not refundable.

Provided that where any applicant withdraws his requisition before the Company takes up the work for erection of the service line, the Company may refund the amount paid by the consumer after deducting 10% of the cost of the sanctioned scheme towards establishment and general charges. No interest shall be payable on the amount so refunded.

5.3.2.2 *Notwithstanding the fact that a portion or full cost of the service line has been paid for by the consumer, the service line shall be the property of the Company, which shall maintain it at its own cost. The Company shall also have the right to use the service line for supply of energy to any other person(s).*

5.3.3 Development Charges:

5.3.3.1 *The amounts payable by the consumer towards development charges of new connection/ additional load under LT and HT categories shall be at the rates notified by the Company with the approval of the Commission from time to time. The consumer shall pay these charges in advance, failing which the works for extension of supply shall not be taken up. **These charges are non-refundable.***

Provided that where any applicant withdraws his requisition before the Company takes up the works of the sanctioned scheme, the Company may refund the development charges paid by him without any interest. However where the service line charges are not sufficient to cover the 10% of the cost of the sanctioned scheme, mentioned in clause 5.3.2.1 above, the balance amount of 10% of the cost of the sanctioned scheme shall be deducted from the development charges paid by him.

The above clauses 5.3.2.1 and 5.3.3.1 specifically provides that the amounts paid by the consumer towards service line charges and development charges are not refundable. Hence complainant is not entitled for refund of the amount. The points answered accordingly.

Point No.3

Complainant filed complaint dt:05.06.2017 for refund of development charges with interest. The complaint was initially rejected by this forum dt :07.06.2017 vide inward No.849. Against the orders of this forum complainant preferred a representation to the Hon'ble Ombudsman vide Appeal No.54/2017, the Hon'ble Ombudsman set aside the order of this forum and directed to deal with the complaint in accordance with the provisions of Reg. 03/2016.

In obedience to the orders of Hon'ble Ombudsman, the complaint is numbered as C.G. No.324/2017-18. After inquiry the complaint was dismissed on 7.08.2018.

Aggrieved by the orders of this Forum complainant preferred a representation to the Hon'ble Ombudsman vide Appeal No.18/2018. The Hon'ble Ombudsman was pleased to dismiss the representation on 20.11.2018.

Complainant also filed another complaint dt : 30.06.2017 for refund of cost of plant of Rs.1,91,010/-. Initially the complaint was rejected by this forum on 30.06.2017 vide inward No.935.

Aggrieved by the orders of this forum, complainant preferred a representation to the Hon'ble Ombudsman vide appeal No.53/2017. The Hon'ble Ombudsman was pleased to set aside the order of this forum and directed to deal with the complaint in accordance with the provisions of Reg. 3/2016 vide order Dt: 20.01.2018.

In obedience to the orders of the Hon'ble Ombudsman, complaint is registered as C.G.No.323/2017-18. Complainant raised two points in this complaint that licensee is not entitled to collect 1. Cost of line and 2. Cost of plant. After inquiry the complaint was dismissed on 07.08.2018.

Aggrieved by the dismissal of the complaint by this forum, complainant preferred a representation to the Hon'ble Ombudsman vide Appeal No.19/2018.

The Hon'ble Ombudsman partly upheld the representation and remanded the case to this forum to determine the complaint with respect to the first point

afresh i.e. “whether the licensee is entitled to collect cubicle charges from the complainant in this case”. The finding of the forum against the claim of consumer over service line is to be confirmed and is confirmed. (Whether the service line erected in this case would become the property of the consumer on the ground that full cost of service line had been paid by the consumer)

In obedience to the orders of Hon’ble Ombudsman in Appeal No. 19/2018 dt : 20.11.2018, again the matter was heard on point No.1 and again dismissed the complaint on 03.11.2020 on the ground that estimate was prepared on 22.01.2015 i.e. in the F.Y. 2014-15 whereas the Hon’ble APERC issued proceedings not to collect cost of supporting structure on 09.9.2016 i.e. in the F.Y. 2015-16 and it was not specifically mentioned that the proceedings are applicable retrospectively.

At that time, we were of the opinion that generally any rebate or concession or benefit given in tax matters by the government or its agencies are applicable only from the date of issuing proceedings or at best from the beginning of that financial year only unless it is specifically mentioned that the benefit shall be applicable retrospectively and that complainant paid the amount on 24.01.2015 i.e. in the financial year 2014-15 and proceedings are issued by Hon’ble APERC in the F.Y. 2015-16 and the complainant was not entitled for refund of the amount and as a sequel the complaint was dismissed.

/ Aggrieved by the orders of this Forum again complainant preferred representation vide appeal No.25/2020-21. The Hon’ble Ombudsman was

pleased to uphold the representation of complainant and ordered for refund the amount of Rs.1,91,010/- with interest @ 6% per annum from 30.06.2017.

According to the respondents, this complaint was filed after receipt of the amount paid by the licensee in obedience to the orders of Hon'ble Ombudsman vide Appeal No. 25/2020-21.

So the above facts clearly show that complainant has split up his claim and filed 2 complaints: one is for development charges and another for cubicle charges/ plant cost (metering and allied equipment such as CTPT connecting cables). The complaint for refund of development charges filed by the complainant was dismissed by this forum as well as the Hon'ble Ombudsman.

The second claim in so far as the claim of the complainant in respect of ownership of service line was dismissed by this forum as well as the Hon'ble Ombudsman. Complainant filed this complaint seeking relief of claiming of ownership over service line or in the alternative to refund the amount paid by him towards service line charges after dismissal of his claim of ownership of service line in earlier complaint by just adding an alternative relief of refund of service line charges.

No authority is placed by the complainant before this forum that he is entitled to file multiple complaints by splitting the cause of action for the amounts paid by him for obtaining single service connection. Complainant is not expected to split his cause of action and file multiple complaints at his convenience suppressing the fact of filing of earlier complaints, so also it is the

duty of the officers of the licensee to bring to the notice of this forum about filing of earlier complaints for the same relief against the same service connection. Once this forum dismissed the complaint, the second complaint basing on the same cause of action and for the same relief by just adding alternative relief is not maintainable. The present complaint is also hit by principles of res-judicata.

Complainant paid the estimated amount on 24.01.2015. The present complaint is filed before this forum on 11.06.2021 i.e. after 6 years and five months. The plea that cause of action arose in this case in the year 2015 and this forum is constituted in 2016, and prior to that there is no limitation under Regulation.01of2004 and hence complaint is maintainable before this forum is not tenable. This forum is not in existence in 2015. This forum is constituted as per Reg. 03/2016 w.e.f. 01st March' 2016. This forum is competent to pass orders as per Reg. 03/2016 only. This forum is empowered to reject the complaints as per Clause. 10.2 (C) of Reg.03/2016 when the complaints submitted beyond two years after the date on which the cause of action has arisen and as per Clause. 10.2 (d) (ii) appears ex facie to be barred by any law. Complainant has not cited any authority that complaint is maintainable before this forum and not barred by limitation and multiple complaints can be filed after dismissal of complaints before this forum as well as before Hon'ble Ombudsman.

Complainant filed the letter addressed to him by the Secretary of Hon'ble APERC vide Lr. No. Engg/DD (Trans) /TR-1011/D.No.203 /2021 dt: 03.05.2021. In this letter it was mentioned as:

“With reference to your letters cited under ref. I am directed to inform you to avail appropriate legal remedies before a competent forum, for redressal of your grievance”

Complainant represented in the hearing that in pursuance of this letter he has filed this present complaint. Complainant did not choose to file the copy of the letter addressed by him to the Hon'ble APERC. It is not known whether complainant mentioned about fact of filing of similar complaints earlier before this forum and their dismissal. Complainant also did not mention in his 2 written complaints sent in one cover that his complaints for refund of development charges and claim of his ownership over service line charges were already dismissed by both this forum as well as by Hon'ble Ombudsman. Successive complaints for the same relief after dismissal of earlier complaints are not maintainable. The point answered accordingly

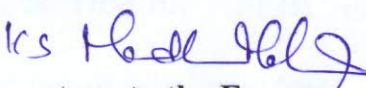
11. In the result complaint is dismissed.

Sd/-
Member (Finance)

Sd/-
Independent Member

Sd/-
Chairperson

Forwarded By Order


Secretary to the Forum

This order is passed on this, the day of 14th September'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.