

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 23-06-2010

Appeal No. 11 of 2010

Between

M/s.Lakshmi Janardhana Baby Rice Mill
Yeleswaram (V) & (M)
E.G.Dist.

... Appellant

And

1. Asst. Engineer / Operation / APEPDCL / Yeleswaram
2. Asst. Divisional Engineer / Operation / APEPDCL / Jaggampeta
3. Divisional Engineer / Operation / APEPDCL / Jaggampeta

....Respondents

The appeal / representation dated 09.04.2010 (received on 16.04.2010) of the appellant has come up for final hearing before the Vidyut Ombudsman on 31.05.2010. Sri Sade Narasimha Rao, Advocate on behalf of the appellant sent written submissions. Sri L.Satish Naik, AE/O/Yeleswaram, on behalf of respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

The appellant filed a complaint before the Consumer Grievance Redressal Forum (for short 'Forum'), APEPDCL for refund of LPF charges and back billing amount of Rs.77,784/- for the period mentioned in the notice.

2. The ADE/O/Yeleswaram submitted his written submissions as hereunder:

1. **“Inspection undertaken**

The service connection bearing No.861 Category-III A, Yeleswaram (V), Yeleswaram Section was inspected on 08.09.09 Sri K.V.Ch.Panthulu, DE/DPE/Rajahmundry.

2. **Incriminating points observed**

Meter Test Result – VE error – 68.79% of Sc No.861 Cat-III A Yeleswaram.

The above observations clearly establish that the meter installed for the above said service connection is not functioning correctly. The MRT report reveals that the meter was recording less energy consumption. Hence, short billing was done for the service owing to defective meter.”

3. The value demanded was billed to Rs.77,884.35ps. Including Electricity Duty and supervision charges, the amount was assessed to Rs.79,130/- in full and also served a notice on the complainant and if he is aggrieved by the said assessment, he can make an appropriate representation to the SE/O/Jaggampeta within 15 days from the date of notice. The respondent also filed documentary evidence in support of his arguments. The Forum has furnished a copy of written submissions filed by the respondent No.1 to the complainant to file his rejoinder. The complainant filed his rejoinder in the vernacular form to the effect that on 04.10.2008, the meter was changed and the meter readings were taken regularly and the demand notices were sent regularly and he paid the CC charges regularly.

4. On 08.09.2009, the DPE unit inspected the service and intimated that the meter is recording less consumption due to wrong connection of the meter and also informed that they have rectified the error. Subsequently a notice was received for payment of the amount mentioned in the notice. On this the complainant represented that the production of his service is less when compared with SC Nos. 573,863 and 211 and the capacity is low and requested to examine the meter and cancel the notice. When the department staff,

threatened on 09.12.2009 to disconnect the service and when the relevant papers were shown, they left the place without disconnecting the same.

5. After hearing both sides and after considering the material placed before the Forum, the Forum observed that the grievance of the consumer/complainant is not coming under the purview of this Forum and he shall approach the appellate authority as contained in para 3.2 of the respondent No.2 and also directed the respondent to identify the person, who installed the meter in the consumer's premises on 04.10.2008 and initiate suitable disciplinary action to make good of the loss sustained by the licensee.

6. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that the appellant is entitled for refund of Rs.6972/- towards capacitor surcharges and the appellant installed the required capacitor and informed the same to the concerned authorities and further requested them not to levy capacitor surcharge in the coming bills. In spite of it, the respondents have been levying capacitor surcharge. After changing the meter they have been paying the capacitor surcharges and in spite of that they have been issued a notice demanding the amount on the ground of wrong connection given to the meter and recording less consumption and the appeal preferred by them is to be allowed by setting aside the impugned order.

7. Now, the point for consideration is, "whether, the impugned order dt.26.12.2009 is liable to be set aside? If so, on what grounds?"

8. The appellant after receiving the notice submitted his written arguments by post praying for refund of amount of Rs.6972/- as the respondents collected towards capacitor surcharge even after installing the capacitor from 12/08 to 08/09 and that fact is not denied by the respondents. Having observed that there is negligence of duty on the part of the office staff, who have wrongly connected the meter and the impugned order is not on correct lines. As per the CC bills from 02/09 to 09/09, the bill amounts are ranging from Rs.3728/- to Rs.5658/-

and are from prior to the inspection of DPE. The bills from 10/09 to 02/10 are ranging from Rs.7446/- to Rs.9752/- and this increase is only to 15%-20%. It cannot be said that this increase is only on account of rectification of meter. The said period is agricultural harvesting season and during harvesting season electrical consumption will be increased. The increase of 68.79% as mentioned in the notice is not correct and the Forum has failed to observe all these things and rejected the complaint and the impugned order is liable to be set aside.

9. Whereas, the respondent, Sri L.Satish Naik, AE/O/Yeleswaram submitted that from the record submitted by them clearly shows less recording and the impugned order is on correct lines and the appeal is liable to be dismissed.

10. The Forum has already opined that there is deficiency of service and passed an order to approach the appellate authority as if it has no jurisdiction to entertain the appeal. It is an admitted fact that wrong connection is given by the respondents at the time of installation of new meter. It is also construed that there is a deficiency of service and the person responsible was to be identified and recommended for initiation of disciplinary action against the concerned official. When, there is deficiency of service on the part of the respondent, the Forum has got power to entertain the complaint.

11. Here, in this case the appellant has taken a specific plea by showing one month billing which is on the high side to show that there is no defect in the meter. The MRT test also clearly discloses that there is less recording and it cannot be denied of the said fact. The average billing from 10/08 to 08/09 is 817 units during the period in which the new meter was installed. Prior to that average reading was 1896 units and after rectification it was 2171 units for almost all the same months of the respective years. When the average is taken, the calculation made by the respondents about less recording is perfectly correct. The claim of the appellant is refund of LPF surcharge and cancellation of notice of wrong recording.

12. So far LPF surcharges collected even after changing the capacitors is not established as he has filed the receipts subsequent to the rectification of the meter and nothing is found place about the capacitor surcharges. Moreover, he has not mentioned when the capacitor is installed and no data is there about the capacitor surcharge claimed by the respondents. The burden in proving the same is not discharged by him. Hence, this aspect is answered in the negative.

13. It is crystal clear that there is a change in the meter reading subsequent to the rectification of the meter. It cannot be said that the charges are made erroneously. So the observation made by the Forum that it has no jurisdiction is not correct and when the record clearly shows that there is deficiency of service and that there is wrong recording, it has got the power to entertain the appeal. Having utilized the consumption and when the percentage of less recording is shown in the meter, the appellant is liable to pay the same.

14. In the light of the above said circumstances, the appeal preferred by the appellant is not on merits and the appeal is liable to be dismissed.

15. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 23rd June 2010

VIDYUT OMBUDSMAN