

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 28 -10-2010

Appeal No. 22 of 2010

Between

Sri Ch. Venugopal Rao
M/s. Federation of Farmers Association
1-191, Railway Wagon Workshop Road,
Guntupalli – 521 241
Ibrahimpattanam (M), Krishna Dist.

... Appellant

And

1. Senior Accounts Officer / Central Office / SPDCL / Vijayawada
2. Superintending Engineer / Operations / SPDCL / Vijayawada

....Respondents

The appeal / representation dated 06.05. 2010 (received on 10.05.2010) of the appellant has come up for final hearing before the Vidyut Ombudsman on 04.10.2010 at Hyderabad in the presence of Sri Ch.Venugopal Rao, appellant, present and Sri M.Satyanarayana, SAO, Sri M.Naveen Kumar, ADE/Ibrahimpattanam and Sri DMV Narasimha Rao, JAO, HT for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

Sri Ch.Venugopal Rao, filed a complaint on behalf of the Federation of Farmers Association before the Forum that the charges raised under Cat-IV(C) 16 hours for agricultural Lift Irrigation Schemes for the HT SC No. VJA-122 and HT VJA – 706 respondents, are not according to the Tariff order. As per the tariff

order dated 20.03.2009, there is no category IV-C under HT category agricultural head. In case the categorization under IV-C is not correct, instruct the concerned authorities of SPDCL to desist from raising the bills.

2. Against the averments of the said complaint, the respondents have submitted their remarks as hereunder:

- (i) the Government of A.P has taken a policy decision to allow free power to the agricultural services for about 7 hours a day.
- (ii) Hence there is no tariff provided for private agriculturists under both HT and LT right from the date of inception of "Free Power Scheme".
- (iii) the unit rate of Rs.2.55 for HT and LT schemes and 2.33ps/unit for LT LI schemes is applied in accordance with the guidelines of the Chairman and Managing Director in Memo No. CGM/P&C/DE/Coml/D.No.782/07, dt.21.06.2007
- (iv) It is true that there is no category of IV(C) in tariff order but it is shown for easy identification at the time of billing for HT LI schemes availing 16 hours supply.

3. After hearing and after looking into the contention raised by the appellant, the Forum opined that it does not find any inaction of the respondents in issuing the CC bills under category IV(C) and the grievance of the complainant is not considered.

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that the Chairperson without giving any reasonable opportunity passed the interim order against to the principles of justice and equity. The Chairperson has taken into consideration about the remarks of the respondents and even without furnishing copies of the same passed the impugned order; and that the finding of the Forum is one sided and the impugned order is liable to be set aside on the ground that there is no classification of IV(C)

in the Tariff order and the raising of the bills is against to the procedure and the impugned order is liable to be set aside.

5. Now, the point for consideration is, “whether the impugned order dated 11.03.2010 of the appellant is liable to be set aside, if so, on what grounds?”

6. Sri Ch.Venugopal Rao, appellant present and submitted that the Forum has ignored the provision of 11(e) of the A.P.Electricity Reform Act and also encroached on to the jurisdiction of APERC and the demand made under the Cat IV(C) is against to law and have disobeyed the directions of law; and that the respondents have approached the APERC and filed data record available in arranging supply to the consumers and got the consent and approval and got it done in the tariff order. The respondents have mislead the appellant and collected the agreements and billed in the name of IV(C) of the agreement as well as did not provide separate charges for the LI schemes adopted by the cooperative units. The bills preferred by the respondents are not proper and it comes under harming the interest of the customers and the appeal preferred by the appellant is to be allowed by setting aside the impugned order.

7. Whereas, Sri M.Satyanarayana, SAO, Sri M.Naveen Kumar, ADE/Ibrahimpattanam and Sri DMV Narasimha Rao, JAO, HT for respondents present and submitted that as there is no specific provision in the tariff order even though it has mentioned in the bills for the sake of convenience and that the bills are raised in accordance with the tariff order and the appeal preferred by the appellant is liable to be dismissed.

8. It is clear from the Tariff order 2009-10, that there is no HT Cat-IV(C) – Agriculture, but the imposition is made under HT Cat-IV-C-Agriculture and the same is liable to be set aside as there is no specific provision in the tariff order. In the absence of the tariff order, the assumption cannot be made either on agreement and or according to their whims and fancies. Then what is the

remedy available to the respondents to collect consumption charges. The Tariff order in HT Cat-IV(B) – Agriculture is as hereunder:

“ This Tariff is applicable for consumers availing HT supply for irrigation and Agricultural purposes and not covered under HT IV(A).

ENERGYCHARGES : ZERO PAISE/UNIT”

They have simply relied upon the conditions of the agreement in raising the bills. As per the agreement clause 14 of the said agreement reads as follows:

“We hereby agreed that we prepared to pay the CC charges at the rate of 2.55/unit for HT LI scheme charges plussing.”

10. The contention of the appellant is that the then President who alleged to have signed on the very agreement is not binding on them as the said President has no lands under said irrigation. It is not the job for this Forum whether the earlier President has got power whether the present appellant is authorized to enter into the agreement. As per the records of the department, there is an agreement to that effect. Moreover, no document is filed by the appellant to the effect that the said Sri K.Anjaneyulu never acted as President of the said society. It is also mentioned in the remarks that they have acted according to the directions given by their CMD. The CMD has no right to act in contravention of the Tariff order. Even if acted it is *void abinitio*. So it is evident, there is a dispute with regard to the units and there is method readily available for the LI schemes run by the Government at the rate of Rs.2.36 per unit for HT-Cat-IV(A)-Agriculture. In the absence of the material and in the absence of the clause IV(C) in the tariff order, it is proper and correct to fix a reasonable tariff under the available tariff ie., IV(B) which is at the rate of 0 for 7 hours and the remaining 9 hours is to be charged at the rate of 2.36 per unit but not at 2.55 per unit.

11. Infact it is also proposed the same in the Tariff order 2010-11 in the form of suggestion as hereunder:

“HT-IV(B):Agriculture - Tariff for Supply beyond 7 hrs in a day

Some consumers requested the Commission to indicate the tariff for power supply beyond 7 hours for HT – IV (B) Agriculture. They have said that the power supply for 7 hours only will not be sufficient to meet the irrigation requirement under lift irrigation schemes and they requested for supply for 16 hours a day with nil tariff for first 7 hours and at tariff as determined by the Commission for balance hours. The Commission therefore directs the Licensees

to examine the issue In detail in the context of consumers’ request and Govt. policies towards supply to agriculture and make appropriate proposals along with ARR filing for FY2011-2012.”

12. In the light of the above said discussion, I am of the opinion that the impugned order is liable to be set aside with a direction to the respondents to supply the electricity for 7 hours at free of cost and for the remaining period of 9 hours out of 16hours at the rate of Rs.2.36 per unit till the said final conclusion is arrived as suggested above in the Tariff order 2010-11. No order as to costs.

This order is corrected and signed on this day of 28^h October 2010

VIDYUT OMBUDSMAN