

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 23-06-2010

Appeal No. 12 of 2010

Between

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

... Appellant

And

1. Asst. Engineer / Operation / APEPDCL / Yeleswaram
2. Asst. Divisional Engineer / Operation / APEPDCL / Prathipadu
3. Divisional Engineer / Operation / APEPDCL / Jaggampeta
4. Divisional Engineer / DPE/ APEPDCL / Rajahmundry

....Respondents

The appeal / representation dated 10.04.2010 (received on 17.04.2010) 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 back billing amount of Rs.20,925/- for the period mentioned in the notice.

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

- (i) For the SC No. 863, Cat- IIIA, 3 phase, 40HP load at Yeleswaram(V), on 16.10.2008 I have replaced existing LTTVR meter class 1.0 accuracy to class 0.5 accuracy LTTVR meter.
- (ii) On 08.09.09, the DE/DPE/Rajahmundry was inspected the service and found that the existing meter was not functioning correctly and recording less energy consumption due to defective meter connection, hence back billing was made from 16.10.2008 to 08.09.2009.
- (iii) On 23.09.09, back billing notice was issued by ADE/Operation/Jaggampeta and the same is served to the consumer for an amount of Rs.20925/- from the period 16.10.2008 to 08.09.09 (shortfall units).
- (iv) From the consumer representation, it was stated that there is no bill variation before the inspection on 08.09.09 and after. The month wise consumption particulars are herewith enclosed and on verification it was found that after inspection on 08.09.09 the consumption units were increased which clearly shows that there is a shortfall units from the period 16.10.08 to 08.09.09.

Hence, it is to submit that there is no need to withdraw the back billing amount since the consumer has utilized the consumption units but not billed.

3. The value demanded was billed to Rs.28861/- 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 16.10.2008, 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.

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.20925- towards back billing 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.21.01.2010 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.20925- 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 staff of officers 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 bills amount are ranging from Rs.2230/- to Rs.5113/- and are from prior to inspection of DPE. The bills from 10/09 to 02/10 are ranging from Rs.5486/- to Rs.6886/- 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 46.93% as mentioned in the notice is not correct and the Forum has failed to observe all these things and rejected the appeal 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 a 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 to the person responsible may be identified and recommended for initiation of disciplinary action against the concerned official. When, there is a 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 with for a specific plea taking 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 765 during this period the new meter was installed prior to the average reading 937 and after rectification it is 1203 for almost all the same months of the respective years. When average is taken the calculation made by the respondents is marginal. It is the case of wrong recording which is alleged by the respondents.

12. So far LPF surcharge is concerned, the required power factor at 0.95 is not maintained. No record is placed that he maintained the required power factor. Hence, he is not entitled for refund of the same, since, he has not discharged the burden cast upon him.

13. When the reading is shown on the average is marginal since the average is 765 during the defective period. Prior to that it was 937 and after that it was 1203. So it cannot be said that it is 46.91%. It is specifically mentioned in the written arguments sent by post that the bills are ranging from Rs.2230 to Rs.5113. Prior to inspection the bills are ranging from 5486 to 6886 from 10/09 to 2/10 and it cannot be said 46.93%.

14. However, taking into account about the variation which is marginal as stated above and where there is deficiency of service it is necessary to hold that the Forum has got jurisdiction to entertain the petition and dispose of the same on merits. However, this authority feels that it is a fit case to exonerate from the liability as the difference / recording is very marginal.

15. In the light of the above said circumstances, the appeal preferred by the appellant is to be allowed by setting aside the impugned order on the ground that it is very marginal.

16. In the result, the appeal is allowed. No order as to costs.

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

VIDYUT OMBUDSMAN