

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 18 -04-2011

Appeal No. 2 of 2011

Between

Sri K.G.Prasad
IK Extractions,
Mfrs. Of GN & SF Solvent Oils and DE Oiled cakes,
16-65, Basapuram Road, Adoni – 518301.
Kurnool Dist.

... Appellant

And

1. Asst Divisional Engineer/Operation/Adoni/CPDCL/Kurnool
2. Asst. Accounts Officer/ERO/ Adoni/CPDCL/Kurnool
3. Divisional Engineer/Operation/ Adoni/CPDCL/Kurnool
4. SE/Operation/Kurnool circle/ CPDCL/Kurnool

....Respondents

The appeal / representation filed dt 10.01.2011 (received on 12.01.2011) of the appellant has come up for final hearing before the Vidyut Ombudsman on 30.03.2011 at Hyderabad, appellant being absent. Sri V.Vengala Reddy, AAO/ERO/Adoni for 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 Forum claiming that the respondents have billed with MD charges on entire CMD under HT tariff just for exceeding 0.96 kVA against his LT SC No. 26000 cat-III(A) for September 2010 bill and requested the Forum to arrange for rectification of his service bill for September 2010.

2. The respondents submitted their representations stating that the complainant's service was with 74.3HP of contracted load i.e, 58.34kVA and the complainant consumer never exceeded the CMD up to August 2010. In September 2010, he has exceeded the CMD by 0.96 kVA and as such the complainant service was billed under HT cat-I i.e, the demand charges at Rs.250/- per KVA was billed instead of Rs.37/- per HP in LT Cat-III(A).

3. The statement of complainant was recorded by the Forum and the statement of Sri V.Vengal Reddy, AAO/ERO/Adoni was also recorded on behalf of the respondents.

4. After hearing both sides and after considering the material placed before the Forum, the Forum passed an order directing the respondents to withdraw the excess billed Rs.915/- towards demand charges in September 2010 bill and shall also follow clause 12.3.3.2 of GTCS in 'Toto' with regard to the complainant service.

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that RMD 59.30 when converted in HP it comes to 75.42 HP (74.3 HP equals 58.34 kVA + 1.22 HP equals 0.96 kVA). As per the tariff under category – III (A), the demand charges up to 74.3 HP to be calculated at Rs.37/- per HP comes to Rs.2749.10 and the excess HP 1.22 (0.96 kVA) to be calculated at Rs.74/- double the charges comes to Rs.90.28 totalling to Rs.2839.98 (2749.10 + 90.28).

The appellant has also requested to consider the above facts and allow him the relief Rs.12900.62 (15740 – 2839.38) along with Rs.730/- (750-20) being the difference of customer charges raised in the bill.

Regarding 6432 units consumed by him to be calculated at Rs.4.13 per unit not at Rs.3.52. The difference of Rs.3923.52 (4.13 – 3.52 = 0.61 paise x 6432 unit) to be paid by him to APCPDCL under Cat-III(A).

6. Now, the point for consideration is, "whether the impugned order dt.09.12.2010 is on correct lines and whether the same is to be modified? If so, on what grounds?"

7. The appellant has failed to attend before this authority inspite of the notice served on him. But Sri V.Vengal Reddy, AAO/ERO/Adoni appeared before this authority and stated that they have calculated the same in accordance with Tariff order as well clause 12.3.3.2 of GTCS in toto and the appeal is liable to be dismissed.

8. It is clear from the facts placed before this authority that the appellant has exceeded the CMD by 0.96 kVA. The calculation was made by applying the above said clause 12.3.3.2 of GTCS. Infact, the above said clause is not applicable to the facts of this case. Clause 12.3.3.2 deals with the cases:

“where the total Connected Load is above 75 HP/56kW or

- i These services shall be billed at the respective HT tariff rates from the consumption month in which the un-authorized additional load is detected. For this purpose, 80% of Connected Load shall be taken as billing demand. The quantity of electricity consumed in any Month shall be computed by adding 3% extra on account of transformation losses to the energy recorded in LT Meter. .*
- ii The Company may at its discretion, for the reasons to be recorded and in cases where no loss of revenue is involved, continue LT supply. If the consumer, however, makes arrangements for switchover to HT supply, the Company shall release HT supply as per the rules.*
- iii One-month notice will be given for payment of service line charges, development charges and consumption deposit required for conversion of LT service into HT service.*
- Iv Service of such consumers who do not pay HT tariff rates or who do not pay the required service line charges, development charges and consumption deposit shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection unless the required service line charges, development charges and consumption deposit are paid for regularising such services by conversion from LT to HT category.*
- v. If the consumer where required, does not get the LT services converted to HT supply and regularised as per procedure indicated above within three months from the date of issue of the notice, the Company is entitled to terminate the Agreement by giving required notice as per clause 5.9.4 of the GTCS, notwithstanding that the consumer is paying bills at HT tariff rates prescribed in clause 12.3.3.2 (i) above.”*

The above said clause deals with the cases where the total connected load is above 75HP / 56KW.

9. Whereas clause 12.3.3 deals with the Additional Connected Loads detected in LT services cases.

Clause 12.3.3.1 reads as follows:

“12.3.3.1 Where the total Connected Load is 75 HP/56 kW or 150HP in cases of LT Cat III(B) or below at the time of detection:

- i. One Month notice shall be given to regularise the additional Connected Load for payment of required service line charges, development charges and consumption deposit, in accordance with the format prescribed in Appendix IX.*
- ii. Service of consumers who do not get the additional loads regularised, shall be disconnected immediately on expiry of notice period and these services shall remain under disconnection, until they are regularised.”*

10. The service connection is less than 75HP at the time of detection. The excess load is 0.96 for only one monthly. LT Cat-III (B) is in respect of and given registration no under SS / registration scheme which connected loads above 75HP and up to 150 HP. Whereas 12.3.3.1 deals with LT Cat-III(B) or below at the time of inspection. The service connection of the appellant is LT Cat-III(A) which is less than LT Cat-III(B). Hence, the said rule is applicable to his case. Therefore, it is incumbent on the part of the respondents to give one month notice to regularize additional connected load and also for payment of service line charges, etc, no such notice is given. It is also clear from the record that the complainant has exceeded the CMD only in the month of September 2010. No record is placed that he has exceeded the CMD even in the subsequent months also. If it is a case of continuous exceeding, no doubt, he has to convert the same into HT line and the authority can invoke the above said clause by issuing notice to him. Without giving notice fixing the levy of HT charges is against to the principles of natural justice and also against to law and it is a mandatory provision which is to be complied by the department by giving notice and if the complainant has not responded action can be initiated as per the above said provisions.

11. This clearly shows that the department has acted in a biased manner without affording any opportunity to the complainant. Therefore, this authority is of the opinion that the impugned order is not on correct lines and the entire charges on HT line are to be wiped out and the order is modified accordingly. The department is at

liberty to proceed in accordance with the provisions in future, if he exceeds CMD during subsequent months by following the above said procedure discussed above.

12. In the result, the appeal is allowed by setting aside the impugned order. Notice for collection of amounts @ Rs.250/- per day is hereby set aside.

13. The respondents are directed to comply this order within 15 days from the date of receipt of this order. No order as to costs.

This order is corrected and signed on this day of 18th April 2011

VIDYUT OMBUDSMAN