

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 09-12-2011

Appeal No. 42 of 2011

Between

M/s. Subash Rubber Core Unit,
Bada Mailaram Village,
Mulugu Mandal,
Medak Dist.

... Appellant

And

1. The Assistant Engineer / operation / CPDCL/ Gajwel
2. The Asst. Accounts Officer / ERO / CPDCL/ Gajwel
3. The Divisional Engineer/operation/ CPDCL/Toopran
- 4 . The Superintending Engineer/operation / CPDCL/Medak at Sangareddy

....Respondents

The appeal / representation is filed by the appellant received on 06.07.2011 has come up for final hearing before the Vidyut Ombudsman on 15.11.2011 & 21.11.2011 at Hyderabad. Sri. T. Kiran, Advocate for the appellant present and Sri Ch. Srinivas, Asst. Divisional Engineer / Operation / Gajwel Sub-division, Sri. A. Suresh Babu, Asst. Accounts Officer / ERO / Gajwel / APCPDCL for the respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The complainant / appellant, M/s. Subash Rubber Core Unit Bada Mailaram Village, Mulugu Mandal, Medak Dist. S.C. No. 460, under LT Category III (B) approached the Forum vide his letter dt. 22.03.2011 wherein he has alleged that t

“the ADE/DPE/HT.III, Hyderabad inspected the above said service on 03.01.2011 and informed that the meter was defective and not recording the readings properly due to defect in B Phase of the CTPT set. Based on this inspection, notice has been issued by the ADE /O/Gajwel vide his letter No. 2089 dt. 04.03.2011 stating that the back billing was done for the CTPT defective period from 04.09.2009 to 05.01.2011 and demanded for payment of Rs. 7,47,328.00 towards back billing amount. Apart from this, low power surcharge levied amounting to Rs.1,00,626.00 and ordered to pay both the amounts within 15 days from the date of receipt of the above said notice.

The meter was not defective during the above mentioned period. They wrote a letter dated 12.03.2011 requesting the respondent to send the alleged defective meter to NAL Laboratory, Bangalore for testing. The back billing for more than 3 months is contrary to the terms and conditions of supply. Without addressing anything on the above, the respondent is contemplating to disconnect the power supply. As stated above, the meter was functioning well during the said period and, there were many inspections conducted by the officials of APCPDCL at least one per month and at no point of time defect in functioning of the Meter/CTPT was pointed out by the inspecting official.

Hence, the Forum may be pleased to declare that meter is not defective during the period from 04.09.2009 to 05.01.2011 and to set aside the notice issued by ADE/O/Gajwel No. 2089 dt. 04.03.2011.”

2. The 1st respondent ADE/O/Gajwel submitted his written submissions to the Forum as hereunder:

“Every month meter readings were taken in first week and bills are being issued to the consumer based on the readings shown in the meter and the consumer is paying the bills regularly. In addition to the meter readings, CMRI dump is also being taken from time to time for record.

The DPE Wing analyzed CMRI data and observed that the current in “B” Phase was zero in meter display at TTB, where as the consumer is availing 3 phase healthy supply. Hence, they inspected the premises on 03.01.2011 at 15.20 hours and the parameters measured at TTB and found that the B Phase current was missing since 04.09.2009 i.e., from the date of release of the supply. Hence, DPE Wing proposed back billing for CTPT set defective period. The defective 2 CTs CTPT set was replaced on 05.01.2011 with final readings as KWH: 94127.6, KVAH: 110530.2, KVARH: 35311 and KVA: 26.2 with MF-2 for all. Since the meter is working normally, same meter is continued in service.

The Assessment of shortfall billing assessed by APE Wing with 50% error for the defective 2 CTs CTPT Set, Rs. 7,47,328.00 towards energy charges and Rs. 1,00,626.00 towards low power factor surcharge, totaling to Rs. 8,47,954.00. Hence, a notice bearing No. 2089 dt. 04.03.2011 was issued to the consumer for arranging payment within 15 days, which was acknowledged by the consumer on 05.03.2011.

I pray the Forum pleased to issue such orders to the complainant directing to pay the back billing charges and low power factor surcharge as per the notice issued.”

3. The Forum examined the respondents 1 & 2, but complainant did not appear before the Forum. After hearing the respondents and after considering the material on record, the Forum passed the following order.

“After detailed consideration and examination of the facts involved, this Forum felt it necessary to order the respondents to limit the back billing up to maximum of SIX months period prior to the date of replacement of the defective CTPT, as per Clause No. 7.5.1.4.4 General Terms and Conditions of Supply

The complaint is disposed off accordingly.”

4. (a) Aggrieved by the said order, the appellant preferred this appeal u/s 42 of the Electricity Act, 2003 questioning the same that the observation of the Forum to limit the back billing up to six months period from the date of replacement of defective CTPT is not correct and it has simply relied upon by the submissions of APCPDCL officials and failed to cross examine them on behalf of the appellant. The Forum ought to have referred the matter to an independent laboratory by sending the meter for testing.

(b) The Forum failed to consider inspections made by the respondent and cannot dispute the functioning of the meter since regular inspections were conducted during the period from 04.12.2009 to 02.08.2010 and during the said inspections never it was pointed out by inspecting officials that there is defect in the meter and the Forum without examining the meter in dispute has come to a conclusion that the meter is defective.

(c)z The Forum ought to have seen that the version of the respondents that the error in the meter recording was 50% during the alleged period of defective is without any basis and the impugned order passed by the Forum is liable to be set aside.

5. The counsel for the appellant argued that the meter defect ought to have been observed immediately after recording the reading as they are taking reading every month and if there is any defect in the meter, it would have been pointed out to the appellant and the authorities never informed the same and erroneously back billing was made for fourteen months but the Forum reduced the same to six months.

6. Whereas the respondents are represented by Sri P.Venkanna DE/O/Jadcherla, Sri G.Bala prakash, JAO/HT/Mahaboobnagar before this authority and stated that the meter is tested and the imposition of six months as ordered by the Forum is in accordance with the procedure and the appeal preferred by the appellant is liable to be dismissed.

7. It is clear from the record that the respondents have levied the back billing for fourteen months and is against to clause 7.5.1.4.4 of GTCS. The above said provision reads as follows:

“7.5.1.4.4: The assessment shall be made for the entire period during which the status of defective meter can be clearly established subject to a maximum period of 3 months prior to the date of inspection in the case of Domestic and Agriculture and 6 months in the case of other categories. “

8. If it is a case of domestic and agriculture the levy of back billing is three months and in other cases it is six months.

9. It is clear from the record that the meter is tested and report was submitted to this authority at the time of hearing of appeal. The respondents submitted a copy of test report on 21.11.2011. The suggestion made by the appellant to send the meter to an independent laboratory is not there in the provisions of the Act or in the GTCS. So it cannot be considered at any point of time. The meter was found defective as the meter was tested in MRT laboratory by the respondents in the presence of the appellant and one Mr.B.Tagur has signed on behalf of the consumer in the test report. The appellant is estopped from contending that the meter has to be sent to any other laboratory, having participated through his nominee in the MRT test.

10. In the light of the above said discussion, the imposition of six months back billing is in accordance with the procedure and there are no grounds to interfere with the observations made by the Forum.

11. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 9th December, 2011

VIDYUT OMBUDSMAN