

BEFORE THE VIDYUT OMBUDSMAN

Present

**Nagaraj Naram
Vidyut Ombudsman**

Dated: 14 -11-2013

Appeal No. 105 of 2013

Between
Sri A.Lakshminarayana
S/o Rama Krishna
D.No. 6-5-21, Kothakota street,
Samalkot – 533440
EG Dist.

... Appellant

And

1. Assistant Engineer / Operation / Rural/ APEPDCL/Samalkot
2. Assistant Divisional Engineer / Operation / Lines / APEPDCL/Samalkot
3. Divisional Engineer / Operation / APEPDCL/Kakinada

....Respondents

The appeal / representation dt.01.10.2013 (received on 07.10.2013) of the appellant has come up for final hearing before the Vidyut Ombudsman on 06-11-2013 at Hyderabad. Sri A.Lakshminarayana, appellant and Sri A. P. Chandra Sekhara Rao, ADE / Samalkot, for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

This appeal is filed against the order of CGRF of APEPDCL in CG No.83/2013-14 of E. G. District dt.31.08.2013.

2. The complainant has stated that he has purchased piece of land in Samalkot and constructed his house and is seeking to live there with his family. He has applied for power supply connection on 22.03.2013 with the CSC / Samalkot, the

same was rejected stating that the service cannot be released due to premises being under a layout. When he contacted the AE, it was informed to him that he should get the necessary transformer and the poles erected for release of supply connection to his premises. Since there is LT line nearby, he has approached the CGRF to give directions to the company to give supply.

3. After hearing him, the CGRF directed the company to provide power supply by preparing an estimate from the existing 11 KV distribution system as per the rules in vogue. Yet, the supply was not released by the company he is filing this appeal seeking justice in the matter.

4. He stated that there are two other connections which were given in the layout but without insisting on erection of any transformer or laying of lines by erecting only two connecting poles. Therefore, he requested that the supply may be directed to be released on the same lines.

5. After receipt of notice for appearing before this authority the respondents have filed their response on the date of hearing. The main contentions are reproduced below:

a) By letter dated 05.11.2013, the AAE / Operation / Samalkot-Rural had submitted the following as hereunder:

(i) Sri A.Lakshminarayana, Madhavapatnam of Samalkota Rural Section applied for new service connection to his newly constructing house at Madhavapatnam (V) of Samalkota Rural Section in CSC / Samalkota on 22.03.2013 vide Reg.No.SLONSC03-12339 dated 22-03-2013 and the same was rejected to Sri A.Lakshminarayana, Madhavapuram by Manager /C SC / Samalkota duly taking into cognizance of instructions issued vide Memo. No. CGM / O&CS / APEPDCL / VSP / DE / O&M / D.No. 645 / 10, dated 30.03.2010 (Lay out guidelines) stating that "The Service could not be released due to the reason service rejected due to the premises under layout".

(ii) Aggrieved by this, Sri A.Lakshminarayana, Madhavapatnam approached the Consumer Grievance Redressal Forum / APEPDCL / Visakhapatnam vide C G No. 83 / 2013-14 of E G District Endt. No. CGRF / D. No. 477 / 14 dated 12.06.2013.

(iii) In response to C G No. 83 / 2013-14 of E G District Endt. No. CGRF / D. No. 477 / 14 dated 12.06.2013. Being the respondent No. 1, the AAE / Operation / Rural-Samalkot submitted the reply duly taking into cognizance of instructions issued vide Memo. No. CGM / O&CS / APEPDCL / VSP / DE / O&M / D. No. 645 / 10, dated 30.03.2010 and reply submitted by respondent No.1 as follows:

- (a) Sri A.Lakshminarayana seeking service connection to his newly constructed house, which is in layout.
- (b) As per circulars dated 30.03.2010 & 12.03.2012, when the premises is in layout, layout electrification has to be done duly following certain prescribed procedures. Further, it is to submit that it was strictly instructed by higher authorities not to release any new service connection in partially electrified and un-electrified layout. The same guidelines were followed in the present case. It was requested to applicant for arranging layout electrification, but the applicant is pressing for release of service without layout electrification, which is contrary to department procedures in vogue.
- (c) It is to submit that as per the physical inspection of the premises and on perusal of documents enclosed by the applicant, the newly constructed house of Sri A.Lakshminaryana falls under layout. It is to submit that there are no lapses on the part of department side and only department procedures are followed.

b) By letter dated 04.11.2013, the ADE / operation / Samalkot submitted the following:

- (i) In response to C G No. 83 / 2013-14 of E G District Endt. No. CGRF / D. No. 477 / 14 dated 12.06.2013. Being the respondent No. 2, the ADE /

Operation / Samalkot submitted the reply duly taking into cognizance of instructions issued vide Memo. No. CGM / O&CS / APEPDCL / VSP / DE / O&M / D. No. 645 / 10, dated 30.03.2010 and reply submitted by respondent No.1 as follows:

- (a) The applicant's house, which is under construction is located in lay out.
- (b) The developer sold away the plots to individuals and the layout approved and developed in 1987. Some individuals constructed houses and obtained electrical connections from there onwards. Hence, the question of treating the area as new layout does not arise.
- (c) The applicant submitted individual plan approval and No objection for giving electrical connection from Gram Panchayat of Madhavapatnam (V) of Samalkota Rural Section.
- (d) The location of the applicant's house does not come under partially un-electrified layout and partially electrified from 1987 to 2010 before the Memo. No. CGM / O&CS / APEPDCL / VSP / DE / O&M / D. No. 645 / 10, dated 30.03.2010.
- (e) There is feasibility to release electrical connection to the applicant Sri A.Lakshminarayana, Madhavapatnam in two ways ie., 1.by erecting 2 nos. LT poles from the existing network, which is within a distance of 120mts. 2. or by providing single phase line with individual DTR for this new service because not to arise low voltage problem in future.

6. The appeal has been taken on record and notice was issued to the parties and were directed to appear on the notified date. Before doing so this authority has examined the nature of complaint by the consumer, the order passed by the lower authority and possibility of conciliation in the matter by this authority under the provisions of the governing regulation. Having come to the conclusion that no conciliation the matter was proceeded with hearing.

7. On the date of hearing the appellant consumer and the representative of the company were present and reiterated the submissions made in the written submissions. The consumer also filed evidence in the form of photographs in

support of his case. The complainant stated that he is poor person employed in a private concern. He has filed copy of the ration card to that effect.

8. It is the case of the consumer that the though the land acquired by very long time back. The said land was part layout of plots made by a land developer comprising of about 40 to 50 plots. He has started constructing the house only recently. Accordingly he has applied for power supply with the company by paying the registration fee. It was informed to him that the service can be released only after payment total cost of laying the lines and transformer for the total layout. He contended it is the responsibility of the plot developer to make arrangements for the utility services, this layout being of the year 1997 no such arrangement was made. Further he stated that he has bought the plot from the original owner who sold away his plot and he is not the original associate of the plot development.

9. He pointed out that two to three connections were released in the vicinity and more particular two connections were released in his neighborhood with in the vicinity of about 100 meters. Now the company is denying service to him on the ground that payment is required to be made for the whole layout and then only the supply will be released. Therefore he had approached the grievance forum which gave only part relief of providing supply by preparing necessary estimate from the nearby 11 KV line after collecting the necessary charges. He is not agreeable to this relief on the ground that the other two connections were released without reference to such payment by bearing the cost of establishment of supply from the department side itself and not insisting on payment total cost is respect of the layout.

10. He pleaded that the service may be directed to be released expeditiously as he is living in the half constructed house with children and other family members without there being power supply.

11. On the other hand the Assistant Divisional Engineer concerned with the area appearing on behalf of the company would contend that the necessary steps have been taken as per directions of the CGRF which passed the order in pursuance of

hearing in detail and also field inspection of the complainant's premises. The necessary estimate has been prepared and approval was accorded by the competent authority. The amount estimated for erection of two poles from the LT line nearby including a transformer is about Rs. 96,285/-.

12. The engineer stated that the company has issued guidelines in the year 2010 requiring stoppage of release of connection for supply of power on individual request as it is the responsibility of the developer of the plots to provide the required plan and obtain sanction after which the total layout will be provided with the connections as when individual connections are requested.

13. A line can carry the power upto a distance of 120 meters without much loss, there after you need to have a transformer for stable supply. In the case of allowing this connection the complainant would suffer low voltage as it is carrying load to other place and may result in insufficient supply as the power is diverted in respect of the consumer. Therefore an estimate for laying line upto the premises of the consumer along with the transformer has been estimated and required the consumer to pay the same for release of supply.

14. In the normal circumstance when a layout of the magnitude of the complainant is required to be electrified, a transformer with 100 KV to 150 KV is installed which will cater to the all the plots after laying the lines. Since the plot developer has not done this exercise and there being not many houses already having power supply in the vicinity, the solution has been evolved as stated above.

15. It has also been brought to this authority's notice that the company is discouraging release of supply where the developers of plots are not giving plan for electricity supply and not making necessary arrangements including payment of amounts. It even went to the extent of punishing the officers who have by passed the guidelines issued by the company. It has been stated at the hearing by the engineer to specific question by this authority as to whether there are any similar cases, that a

few more cases have been withheld in the section and one case has landed in the CGRF.

16. In the light of the submissions of the rival parties the issue that arises for consideration is whether the complainant is entitled to any relief in this appeal and is there any requirement of further observations *vis-à-vis* the Electricity Act, 2003, terms and conditions of supply of the licenses thereof and the regulations made by the Regulatory Commission.

17. The complainant ostensibly being denied power supply as he is a poor person as it is clear from the ration card itself. In his best effort he has secured a piece of land and started building a house of his own. In the present housing and land plot sale scenario the developers are offering all sorts of amenities depending on the level of the developers and capacity consumers / purchasers to pay for such amenities. But according to the complainant this plot was developed way back in 1997 and it was purchased by him from the original purchaser of the layout plot. This fact is not disputed by the company. It has also been conceded that some connections have already been given in this and the neighboring layouts prior to the guidelines. In that context of the matter, the CGRF has rightly arrived at a conclusion for providing supply, but erred putting the complainant on a higher pedestal of costs.

18. Turning to the guide lines the same needs a look before the same analysed by this authority. These guidelines do not speak of any action by the individual consumers. It has more to do with the developer who is planning and plotting the area and selling them of. The consumer in ordinary sense is least connected or responsible for the whole of the lay out area and the action or inaction on the part of the developer *vis-à-vis* the company.

19. However, if the individual consumer seeks supply and the same provision of supply in the absence of the developer not performing the part of his duty, the onus now lies on the company to ensure supply. In this context the guidelines speak more of the action or inaction of the developers of plots / flats but not of the individual

consumer. The same cannot be the basis for deny a consumer like the complainant the facility of availing power supply. Hither to if the complainant was not part of the any layout and had individual plot and he demands supply, the company is bound to extend supply. Thus the guidelines cannot be thrust on consumers.

20. At this stage it is relevant to notice the provisions of the Act, 2003, regulation made by the Commission and the terms and conditions of supply

Sec 43 of the Electricity Act, 2003

43. (1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply :

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

Explanation – For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances].

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate

supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission .

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

Sec 46. The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

Regulation 3 of 2004

4. Duty of Licensee to supply on request

(1) Every distribution licensee shall, on receipt of an application from the owner or occupier of any premises, give supply of electricity to such premises within the time specified in sub-clause (2) subject to payment of fees charges and security and the due fulfillment of other conditions to be satisfied by such owner or occupier of the premises:

Provided that in case of applications requiring supply under Low Tension Agricultural Category, such obligation on the part of the licensee shall be limited to the number of connections that can be covered within the target fixed for the year for release of agricultural connections. The licensee shall maintain a waiting list of such applicants in a serial order based on the receipt of such application and the waiting list number shall be communicated to the concerned applicant in writing within 15 days of receipt of application. If the applicant's case cannot be covered in the programme of release of agricultural connections fixed for the year, it shall be so indicated in the said written communication.

(2) (a) The Distribution Licensee shall give supply of electricity to the premises pursuant to the application under sub-clause (1) above, where no extension of distribution main or commissioning of new sub-station is required

for effecting such supply within one month after receipt of the application along with the fees, charges and security amount payable;

(b) In cases where such extension of distribution main is required but there is no requirement of erecting and commissioning a new 33/11KV sub-station the Distribution Licensee give supply within the time frame specified hereunder:

Type of service connection requested	Period from date of payment of required security, within which supply of electricity should be provided
Low Tension (LT)	30 days
11 kV supply	60 days
33 kV supply	90 days
Extra High Tension (EHT) supply	180 days

Provided that the Distribution Licensee may approach the Commission for extension of the time specified above, in specific cases where the magnitude of extension is such that it require more time, duly furnishing the details in support of such claim for extension and if the Commission is satisfied with the justification given by the distribution licensee it may extend the time for commencing the supply.

Regulation 7 of 2004 as amended by the Regulation No. 9 of 2013

4.1 Cases where power supply can be provided from existing network

(i) The Licensee shall release supply to an applicant within 30 days of receipt of a complete application accompanied by prescribed fees, charges and security:

Provided that in case of applications requiring supply under Low Tension Agricultural category, such obligation on the part of the Licensee shall be limited to the number of connections that can be covered within the target fixed for the year for release of agricultural connections. The Licensee shall maintain a waiting list of such applicants in a serial order based on the receipt of applications and the waiting list number shall be communicated to the concerned applicant in writing within 15 days of receipt of application. If,

however, the applicant's case cannot be covered in the programme of release of agricultural connections fixed for the year, it shall be so indicated in the said written communication.

(ii) The Licensee shall keep the fees, charges and security payable by the applicants for new connections notified and also specify the same on the application form.

4.2 Cases where power supply requires extension of distribution mains

(i) The Licensee shall acknowledge the receipt of the application within 2 days and shall intimate to the applicant in writing, the amount of security and other charges payable within 7, 15, 30 and 45 days of receipt of application for Low Tension, High Tension (11KV), High Tension (33KV) and Extra High Tension (above 33KV) respectively.

(ii) The supply of electricity in such cases shall be effected by the Licensee within the time limits specified hereunder:

Voltage of supply Period from date of payment of required security and other charges, within which supply of electricity should be provided

Low Tension	30 days
High Tension – 11000 Volts	60 days
High Tension – 33000 Volts	90 days
Extra High Tension – Above 33000 Volts	180 days

Provided that the distribution Licensee may approach the Commission for extension of time specified above, in specific cases where the magnitude of extension of distribution mains is such that it requires more time, duly furnishing the details in support of such claim for extension. Such request should be made immediately after preparation of the estimate for such extension.

Clauses of the terms and condition of supply.

5.1 Company's Duty to Supply:

The Company shall, on an application by the owner or occupier of any premises, located in his area of supply, give supply of electricity to such Premises in accordance with Section 43 of the Act and the APERC ('Licensees' duty for supply of electricity on request) Regulation, 2004 (No.3 of 2004) as well as the APERC (Licensees' Standards of Performance) Regulation, 2004 (No.7 of 2004). The applicant must however ensure compliance with the procedure specified in the GTCS.

5.2.7 After receipt of the complete application form along with required supporting documentation and charges, the Company takes action to release supply within the time frames prescribed in the APERC (Licensees' duty for supply of electricity on request) Regulation, 2004 (No.3 of 2004) as well as the APERC (Licensees' Standards of Performance) Regulation, 2004 (No.7 of 2004) issued by the Commission.

21. A cursory reading of all the provisions combined together would make it emphatically clear that the consumer is bound to get the power supply in a time bound manner at a reasonable cost. The company has the universal obligation to supply without any restrictions. The only restriction is collection of necessary charges that are incurred by the licensee for providing electric plant and electric line.

22. The guidelines, to say the least are applicable to a person / company seeking to establish / develop a layout for different purposes, who has to comply with the same. This situation more likely when such developer itself seeks to provide all such amenities. Where the developer chooses not to do, then it is incumbent on the individual consumers to get access to the service of utilities as and when they desire to avail the same.

23. **The guidelines sought to be put into operation and being invoked through administrative instruction cannot be relied upon as they run contrary to the provision of the Act and the regulations including the terms and**

conditions of supply in case of individual consumer. They are required to be set aside by the company and is accordingly directed to do so.

24. In the case on hand, the application is made by the consumer with the customer service centre on 22.03.2013. The same was rejected by the customer service centre giving the reason of service requested in a layout. Aggrieved by such action only, the complainant has approached the CGRF for redressal of the grievance. The reasons afforded by the officers of the company based on the guidelines are not tenable in the light the provisions of the Act and the regulations including the terms and conditions of supply apart from the observations made above.

25. As stated supra and not denied by the company the layout is of the year 1997 and service is sought in the year 2013 when the construction of the house is being made. Thus the complainant cannot be expected to bear all the expenses of the layout for the sake of availing power supply for himself.

26. Thus the company is bound to and it is incumbent on it to provide the supply to the complainant by collecting the charges for releasing an ordinary connection as if there was supply existing at the same place already. If need be collect such charges to extent of the proportionate complainant share by estimating total cost for the layout.

27. This authority is of the considered opinion that the service connection has to be released immediately without any further delay by adopting any of the following options

- a) Lay the line from the nearest LT line by installing necessary poles and release the connection for which the consumer will pay the necessary charges. If requested the company may allow not more than three installments for payment of the amount, as the amount is supposed to be very less.

- b) The second option would be to release the supply after collecting such charges to extent of the proportionate complainant share by estimating total cost for the layout.
- c) The third but the last option would be to release the supply by adopting the method suggested by the CGRF for which an estimate is prepared and given to the complainant
- d) The complainant should be apprised of the costs involved in both the option at (b) and (c) above and allow him to choose the option, if and only if the option (a) is not workable and not agreed to by the complainant.
- e) Payment of amounts beyond Rs. 30,000 may be considered for suitable installments in either case.
- f) At any rate, the service should be released not later than 21 days from the date of receipt of this order.

28. With these observations, the appeal is allowed and the company is directed to file a report within 4 weeks from the date of receipt of this order. A copy of this order is sent to the CMD of the company and the concerned Superintending Engineer for ensuring effective compliance of the order.

This order is corrected and signed on this day of 13th November 2013

Sd/-
VIDYUT OMBUDSMAN