



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: **R. DAMODAR**

Wednesday, the First day of March 2017

Appeal No. 77 of 2016

Preferred against Order Dt. 14-12-2016 of CGRF In

CG.No: 497/2016-17 of Ranga Reddy North Circle

Between

Sri. L. VijayKumar, H.No. 3-93/2, Dundigal, Qutubullapur Mandal,
RR District - 500 043. Cell : 9989676963.

... Appellant

AND

1. The ADE/OP/Jeedimetla/TSSPDCL/Hyderabad.
2. The AAO/ERO/Jeedimetla/TSSPDCL/Hyderabad.
3. The DE/OP/Kukatpally/TSSPDCL/RR District.
4. The SE/OP/RR North Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 30.12.2016 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 07.02.2017 at Hyderabad in the presence of Sri. L. Vijay Kumar - Appellant Sri. K. Bagaiah - ADE/OP/Jeedimetla, Sri. P. Vittal - AAO/ERO/Jeedimetla for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has SC No. 04010 2537 under Category II with connected load of 5KW released on 18.5.2012. When the meter was burnt, it was replaced with a new meter on 13.2.2016. On 21.4.2016 the AAE/O/DP Pally inspected the service, booked a case of short billing when the actual final reading was 85867. The final reading billed was 82501 with shortfall of 3366 Units, which was billed for Rs 32,852/-. The Appellant paid the amount under demand on 30.8.2016. Under the same inspection, the inspecting officer AAE/OP/DP Pally observed that the sanctioned load was 5 KW and the existing connected load was 20 KW. He observed that the existing additional load of 15 KW has to be regularized or to be removed. In this regard, the Appellant paid

Rs 18,000/- towards DC and Rs 12,000/- towards Security Deposit on 20.9.2016 and the load was regularised w.e.f 28.9.2016.

2. On 5.8.2016 the DEE/DPE/RRN booked a case of shortfall of units on the ground that the billing was done under KWH instead of KVAH when the consumption of the service was above 10 KW contracted load. He assessed the amount for Rs 82,070/- as shortfall units from the date of meter change on 13.2.2016. The Appellant did not pay this amount and preferred a complaint before the CGRF.

3. The Appellant, during the hearing, claimed that the amount of Rs 82,070/- has been included in the CC bills without issuing any demand notice and sought withdrawal of this amount as he is not able to pay the amount. The 1st Respondent/ADE/O/Jeedimetla claimed that DEE/DPE/RRN on 5.8.2016 booked a short billing case on the ground that in a service with 10 KW and above contracted load, billing has to be done under KVAH consumption, which was not done and therefore, he proposed back billing from the date of meter change.

4. The assessment was calculated by the Respondents under KVAH billing as follows:

a. Assessment period	:	13.2.2016 to 5.8.2016
b. KVAH reading on date of inspection	:	56361
c. KVAH reading on date of inspection	:	48203
d. Difference between KVAH and KWH reading	:	56361-48203 = 8158 units
e. Rate	:	8158 Units x Rs 10/- = Rs 81,580/-
ED	:	= Rs 490/-
Total	:	= Rs 82,070/-

Based on the above calculation, a demand for short billing for Rs 82,070/- was made and included in the CC bill.

5. The DE/OP/Kukatpally the designated officer for appeal in back billing cases, by orders dt.14.10.2016, confirmed the provisional assessed amount of Rs 82,070/- quoting Clause 7.5.1 of GTCS read with Annexure XII VII(C) (This assessment relying on Clause 7.5.1 of GTCS is not correct, as this Clause relates to guidelines for assessment

towards defective meter. The present back billing case relates to shortfall of units representing the difference in KVAH & KWH consumed units).

6. After hearing and based on the material on record, the CGRF, through the impugned orders, has rejected the Appeal of the Appellant quoting provisions of Section 126 of the Electricity Act, 2003, adding further that the Forum cannot sit as an Appellate authority in the place of SE. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal claiming that he has no capacity to pay the demanded amount and that he is being threatened with disconnection of the service, unless the amount is paid.

7. The 2nd Respondent/AAO/ERO/Jeedimetla submitted a reply dt.2.1.2017 stating that DE/DPE/RRN booked a back billing case on 5.8.2016 towards shortfall units of KVAH since the contracted load was 20 KW. He stated that as per the procedure for a service with more than 10 KW under Category II, the billing should be under KVAH basis and on this the DE/DPE/RRN proposed KVAH billing for 8158 units, which was finalised by the DE/OP/Kukatpally/R3 by his orders dt.14.10.2016 for Rs 82,070/-. He claimed that a notice was sent to the consumer by the 1st respondent/ADE/O/Jeedimetla for this demand. The AAO further asserted that the short billing case is based on facts and the procedure and the Appellant has to pay the amount.

8. The 1st Respondent/ADE/O/Jeedimetla submitted a reply dt.25.1.2017 on similar lines asserting that the short billing proposed was from 13.2.2016, the date of change of meter to 5.8.2016, the date of inspection by DE/DPE/RR North Circle. He claimed that since the meter reader could not give the bill with KVAH reading from April, 2016 to September, 2016 because of the preloaded program in the spot billing machine, explaining the delay in implementing KVAH billing.

9. Mediation failed to bring any settlement of the dispute and therefore, the matter is being disposed of on merits.

10. On the basis of the material available and the contentions, the following issues arise for determination:

1. Whether the Appellant is liable to pay Rs 82,070/- towards back billing amount w.ef. 13.2.2016 to 5.8.2016?
2. Whether billing the consumer in KVAH units when the sanctioned load is 20 KW, is proper from 20.9.2016, the date of regularisation of the load?
3. Whether the impugned orders are liable to be set aside?

Issues 1 to 3

11. The Appellant claimed that without any prior notice, a demand for Rs 82,070/- representing back billing was made in the regular CC bill and that he is not liable to pay the amount and that he has no capacity to pay the amount. The Respondents claimed that when the connected load is above 10 KW, the billing should be done on KVAH side and not on KWH and in the present case, during the relevant period, instead of KVAH, the billing was done under KWH. The fact remains that the consumed KVAH units would be higher when compared with KWH units, which varies depending on the power factor of the consumed load. The billing of KVAH units eventually would be higher than KWH units every month. This difference in billing units according to the Respondents would result in revenue loss to the DISCOM. Hence back billing was resorted to only to cover the shortfall of units between KVAH and KWH units from the date of change of meter, which was replaced when reported burnt on 13.2.2016 to the date of inspection on 5.8.2016.

12. The 1st Respondent/ADE/OP/Jeedimetla stated that the excess load of 15KW over the sanctioned load of 5KW was regularised only after payment of the required charges by the Appellant and it is reflected in EBS in October, 2016. Thus billing on KVAH side could not be carried out due to preloaded program in the spot billing machine indicating that it is not technically viable to bill KVAH units unless the load is regularised.

13. The CGRF had rejected the Appeal of the Appellant quoting the provisions of the Section 126 of the Electricity Act, 2003. It further added that the Forum cannot sit as an Appellate authority in the place of SE/OP/ RR North the designated authority, and directed the Appellant to pay the back billing amount or to file an Appeal before the SE as per the procedure laid down as per the Act.

14. The provisions under Section 126 of the Act was wrongly quoted in this case. Section 126 of the Act reads as follows:

“If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in **unauthorized use of electricity**, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.”

15. Section 126 as read above, is applicable to those consumer indulging in unauthorised use of electricity. The inspecting officer, the DE/DPE, proposed back billing under the provisions of Sub Clause 2(1) of Clause 3 of Part 'A', category wise specific conditions of LT Tariff of the Tariff Order FY 2015-16, which mandates KVAH billing for LT Cat- II consumers having load of 10 KW & above. The Appellant got regularised the excess connected load of 15 KW by paying the required amounts. This case does not fall under Section 126 of the act. Further, the responsibility of billing in KVAH units instead KWH units for the services having load of 10 KW & above, lies with the DISCOM. Hence, the cases booked does not lie under the ambit of Section 126 of the Act.

16. As per Sub Clause 2(1) of Clause 3 of Part 'A' LT Tariffs of the Tariff Order 2015-16 mandates KVAH billing for a consumer under LT-II having load of 10KW and above. At the time of meter change on 13.2.2016, the contracted load of the Appellant was 5KW. The excess load of over 15KW was detected by AAE/OP/DP Pally on 21.4.2016 and the Appellant was put on notice about this excess load on 20.5.2016 by way of regularisation of additional load by the 1st Respondent/ADE/O/Jeedimetla through letter dt.20.5.2016. Till this date, the Appellant was not aware about any need for short billing and the reason for short billing. The Appellant asserted that he had no prior notice about the demand of back billing amount and the reason therefore and he was not given any notice prior to adding this back billing amount in the CC bill, which appears to be correct. There is absolutely no reason to the Respondents not to inform the Appellant about the demand for short billing and the reasons therefore, when they could get the additional load regularised w.e.f. 20.9.2016 after the Appellant paid Rs 18,000/- towards DC and Rs 12,000/- towards Security Deposit on the inspection of the service on 21.4.2016.

17. The act of the Respondents in resorting to back billing from 13.2.2016, the date of replacement of burnt out meter to 5.8.2016, appears to be not based on correct practice. The back billing based on Sub Clause 2(1) of Clause 3 of the Tariff Order which mandates KVAH billing when the load is more than 10 KW w.e.f 20.5.2016, the date of issue of notice for regularisation of excess load instead of 13.2.2016, to 5.8.2016 appears to be reasonable and based on correct application of the procedure.

18. The CGRF has rejected the Appeal quoting section 126 of the Electricity Act,2003 wrongly. Section 126 of the Electricity relates to unauthorised use of electricity and provisionally assessing the loss based on best judgement basis. The present case is not about unauthorised use of electricity, but about careless attitude of the officials of

the DISCOM in educating the consumer about the charges he is liable to pay in case the connected load exceeds 10 KW. In the present case, the Respondents have failed in their duty to act according to the procedure prescribed under the Tariff Order 2015-16. Thus the order of CGRF cannot be sustained on any ground. The issues are answered accordingly.

19. In the result the Appeal is allowed holding that:

- a. the back billing resorted to by the Respondents w.e.f. 13.2.2016 to 5.8.2016 is set aside, with a direction that back billing shall be confined to the period from 20.5.2016 to 5.8.2016.
- b. the back billing amount shall be payable in 5 equal instalments starting from the CC bill of April,2017. Failure to pay even one instalment shall make the entire amount fall due with all its consequences.
- c. the impugned orders are set aside to the extent indicated.

20. The licensee shall comply with and implement this order within 15 days for the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

Typed by CCO, Corrected, Signed and pronounced by me on 1st day of March, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. Sri. L. VijayKumar, H.No. 3-93/2, Dundigal, Qutubullapur Mandal,
RR District - 500 043. Cell : 9989676963..

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5. The SE/OP/RR North Circle/TSSPDCL/Hyderabad.

Copy to:

6. The CGRF, TSSPDCL, Greater Hyderabad Area, Vengal Rao Nagar, Erragadda,
Hyderabad.

7. The Secretary, TSERC, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad.