



**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 Fourteenth Day of March 2018

Appeal No. 08 of 2018

Preferred against Order Dt.20.12.2017 of CGRF in

C.G.No.664/2017-18/Rajendra Nagar Circle

Between

M/s. Binjusaria Sponge & Power Pvt. Ltd. C-1, Govt. Industrial Estate,  
Chandulal Baradari, Hyderabad. Cell: 9391033606.

... Appellant

**AND**

1. The DE/OP/Shadnagar/TSSPDCL/ RR Dist.
2. The SAO/OP/Rajendra Nagar Circle/TSSPDCL/Hyderabad.
3. The SE/OP/Rajendra Nagar Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 27.01.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 01.03.2018 at Hyderabad in the presence of Sri. K. Nataraj - on behalf of the Appellant company and Sri. P. Raja Ram Reddy - DE/OP/Shadnagar, Sri. G. Lokeshwariah - SAO/OP/Rajendra Nagar Circle for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

**AWARD**

The Appellant is a HT consumer with SC No. RJN-594. The Appellant lodged a complaint seeking revision of the CC bills from April,2013 to July,2017 by applying 33 KV Tariff and for refund of Rs 39,32,197/- along with interest @ 24% P.A. as per Clause 9.2 of code of practice on payment of bills.

2. The 3rd Respondent/SE/O/Rajendra Nagar Circle filed written submission dt. 09.11.2017 stating that the Appellant is a HT consumer No. RJN-594 with CMD of 470 KVA at 11 KV Voltage with common feeder. He stated that as per the request of the Appellant dt.3.12.2012, the corporate office of the DISCOM had

sanctioned conversion of supply from 11 KV to 33KV on the following conditions under MEMO No.CGM(Comml.)/SE(C)/DE(C)/ADE-I/D.No.2840/12 dt.06.12.2012:

- a. Appropriate suitable CT's (with class of accuracy 0.2S) may be provided.
- b. The consumer has to pay 11KV tariff for energy charges until they reach 1501 KVA CMD.
- c. The estimate shall be sanctioned by the competent authority within his power.
- d. The consumer has to agree for load relief depending upon the system grid requirement.
- e. The consumer has to give their consent on non judicial stamp paper for above conditions.

Accordingly, the Appellant Gave consent letter to the DISCOM and entered into an agreement on 20.03.2013. The conversion of the service was effected from 25.03.2013 based on HT Test report. He stated that presently, the CMD is only 470 KVA and therefore, the service is being billed by applying 11KV tariff and the billing in 33KV will be applicable when the CMD reaches 1501 KVA.

3. During the hearing on behalf of the Appellant, a request was made for applying 33KV tariff rates from April,2013 to July,2017 and for refund of Rs 39,32,197/- along with interest @ 24% P.A representing the price differential the Appellant paid. On behalf of the DISCOM, the 2nd Respondent stated that at the time of according permission for conversion from 11KV supply to 33KV supply, it is clearly mentioned that the consumer has to pay the Tariff for 11 KV until the CMD gets to 1501 KVA. He claimed that if there is any violation of GTCS, the Appellant ought to have stated so at the time of conversion and execution of the agreement.

4. On consideration of the material on record and rival contentions, the CGRF found favour with the claim of the Respondents that the Appellant should pay the tariff for 11 KV until the CMD reaches 1501 KVA, since the present CMD is only 470 KVA, through the impugned orders.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal claiming that the Appellant got the transmission line converted from 11 KV to 33 KV during April,2013 by paying the applicable charges and therefore, the Tariff applicable to the service of the Appellant is 33 KV and

charging of 11KV tariff from April,2013 to July,2017 cost the Appellant Rs 39,32,197/- more.

6. The Appellant further stated that as per Clause 5.1.1 of Tariff Order (page 201) FY 2013-14, the tariff rate is not dependent on the quantity of the Contracted Maximum Demand. The relevant portion is noted here for ready reference:

H.T-I(A) INDUSTRY-GENERAL

DEMAND CHARGES & ENERGY CHARGES

<b>Voltage of supply</b>	<b>Demand charges Rs/KVA/Month of billing demand</b>	<b>Energy charges Rs/kvah*</b>
132 kv and above	350	4.90
33kv	350	5.30
11kv	350	5.73

The Appellant, in view of the demand charges and energy charges specified for FY 2013-14 Tariff Order, sought energy charges for 33 KV transmission of power in view of the absence any specification regarding any lower limit of KVA and sought revision of the energy charges and refund of the amount paid, with interest.

7. The 3rd Respondent/SE/OP/Rajendra Nagar circle submitted a reply dt.28.02.2018 stating that the Appellant had contracted maximum demand of 470 KVA availing supply at 33 KV voltage on the common feeder. He stated that the corporate office of TSSPDCL has accorded permission for conversion of supply from 11 KV level to 33 KV level on the following conditions:

- a. Appropriate suitable CTs(with class accuracy 02) may be provided.
- b. The consumer has to pay the tariff rate i.e. 11kv tariff rate for the energy charges until they reach 1501 KVA CMD.
- c. The estimate shall be sanctioned by the competent authority within his powers.
- d. Consumer has to agree for load relief depending upon the system grid requirement
- e. The consumer has to give their consent on Non-judicial stamp paper on above conditions.

When the Appellant gave consent letter and entered into an agreement on 20.03.2013, the conversion of 11 KV to 33KV level has been done from 25.03.2013 based on the HT test report. The present CMD is only 470 KVA and therefore, the service is being billed applying 11KV tariff and that 33KV tariff will be applied when CMD reaches 1501 KVA and justified the charges collected.

8. The efforts at mediation have not been successful, because of the respective stands of the parties to the dispute. Therefore, the matter is being disposed of on merits.

9. Based on the material on record, the following issues arise for determination:

- a. Whether the 11KV tariff rate for the energy charges with the 33KV transmission with CMD 470 KVA is justified and legal?
- b. Whether the consent given by the Appellant for 11KV tariff for the service under 33KV with 470 KVA binds the Appellant, in the absence of any provision either in the GTCS or in the Tariff Orders?
- c. Whether the impugned orders are liable to be set aside?

**Heard.**

**Issues 1 to 3**

10. The admitted facts are simple in nature. The Appellant has 650 KVA supply at 11 KV voltage with common feeder and subsequently got the sanctioned load reduced from 650 KVA to 470 KVA during the month of February,2015. At the request of the Appellant, the Respondents sanctioned 33 KV voltage transmission on certain conditions, including the condition that appropriate and suitable CT's(with class accuracy 0.2S) should be provided and the Appellant should pay 11KV tariff until the CMD reaches 1501 KVA. It is clear from the record, that the Appellant agreed with these conditions and therefore, the Corporate Office of the DISCOM has permitted conversion of 11 KV supply to 33 KV supply, with the condition that the appellant should pay for 11 KV tariff for the supply. For 3 years, the Appellant paid the tariff and later lodged a complaint with the CGRF.

11. The Respondents filed communication to show that the corporate office of the United Central Power Distribution Company of AP Ltd., has sanctioned conversion of 33 KV to 11KV supply with a crucial condition that the Appellant has to pay the energy charges for 11KV supply until the CMD reaches 1501 KVA. The

communication like estimate for conversion of supply from 11KV to 33KV level with billing in 11KV level to the Appellant through letter of the 3rd Respondent dt.19.01.2013, the letter of the Appellant dt.22.01.2013 agreeing with the proposals addressed to the 3rd Respondent and consequent erection of the concerned structure, execution of agreement etc support the DISCOM regarding payment of energy charges at 11KV supply. The Appellant cannot plead innocence about the consent given for payment of 11 KV energy charges. Under these circumstances, it has to be seen whether the condition imposed by the Respondents on the Appellant for charging 11KV tariff is in tune with the GTCS or Tariff Order, though HT test report dt.25.03.2013 shows that nature of metering is 33 KV HT.

12. Clause 3.2.2.1 of GTCS under the caption HT provides for the consumers intending to avail supply on common feeders:

For total Contracted Demand with the Company and all other sources like APGPCL, Mini-Hydel, Wind power, MPPs, Co-Generating plant etc:

Contracted Demand	Voltage level
Upto 1500 kva	11kv
1501 kva to 500-kva	33kv
Above 5000 kva	132kv or 220 kv as may be decided by the company

13. The Tariff Order 2013-14 in Part B Clause 5.1.1 HT category I (A) Industry- General shows the following:

Voltage of supply	Demand charges Rs/KVA/Month of billing demand	Energy charges Rs/kvah*
132 kv and above	350	4.90
33kv	350	5.30
11kv	350	5.73
*Rs 1.00/Kvah Time of Day Tariff is leviable on energy consumption during the period from 06.00 PM to 10.00 PM, in addition to the normal energy charges at respective voltages.		

The above table shows different rates applicable for different voltage levels of supply. The Appellant is now seeking the benefit of lower rate per KVAH at 33 KV

level now and not when he sought change knowing fully well that the DISCOM was imposing 11 KV charges, which were a bit higher than for the supply under 33 KV.

14. The GTCS Clause 3.2.2.1 extracted supra mandates different voltage levels of supply to be availed for certain range of contracted demand intended by the consumer under HT category. In this way, the CMD of 470 KVA availed by the Appellant under the common feeder is to be supplied under 11 KV level of supply. The DISCOM ignored the statutory condition and accorded approval for conversion from 11KV to 33KV level of supply for a CMD of 470 KVA.

The Tariff Orders emphasises energy charges with respect to voltage level of supply. Basically, the tariff rates per KVAH units consumed by the Appellant directly depends upon the voltage level of supply and not the CMD availed by the Appellant.

The Appellant requested for 33 KV level of supply instead of 11 KV to avoid 11KV interruptions, which are more compared to 33 KV level of supply. The 33 KV level of supply conversion was accorded approval based on mutual agreement between both the parties. The Tariff Order specifically mandates tariff rates for KVAH units consumed based on the voltage level of supply availed.

15. Clause 3.2.2.1 of GTCS as aforementioned clearly states that the supply of energy upto 1500 KVA shall be at 11KV level and above 1501 KVA upto 5000 KVA, the voltage level at 33KV of supply for the consumers intending to avail supply under a common feeder. In the present case, the Appellant has 470 KVA supply and as per Clause 3.2.2.1, the supply of 33KV level for CMD of 470 KVA is not contemplated. There is absolutely no material on record to show that there is any contemplation of the consumer paying different tariff rates for the energy supply for example 11KV supply tariff rate is being applied for 33KV supply. Even though there is a conditional sanction of conversion from 11KV to 33KV supply with consent, whether the consent of the Appellant for tariff charges is compatible with the terms of GTCS and Tariff Orders?

16. The consent given by the Appellant for collecting tariff at 11KV supply for the energy supplied at 33KV is a condition not contemplated by the Tariff Orders and terms of GTCS. The consent of the Appellant is only implied through conditional sanction of conversion of supply from 11KV to 33KV. The Appellant setup the structure for 33KV supply on such consent and now the Appellant raised an objection

about collection of energy charges at 11KV supply for the actual supply of energy at 33KV level and is seeking refund of the amount collected. The Appellant has nothing to say about how in the first instance it agreed to the terms imposed by the 3rd Respondent and also the Corporate Office of the CPDCL of AP limited for sanctioning 33 KV supply.

17. The claim of the Respondents is that in view of the implied consent given by the Appellant, the imposition of charges for 11KV supply for the energy supplied at 33KV level for 470 CMD is justified. How imposition of this condition is justified is not explained by the Respondents. Neither in the GTCS nor in the Tariff Order anywhere the collection of 11KV level charges for the energy supplied at 33KV level is contemplated. Further the consent of the consumer does not empower the DISCOM to transgress the terms of supply of GTCS and Tariff Orders. Thus, a part of the contention of the Appellant that not to collect charges at 11KV level for 33KV transmission is tenable and justified.

18. As far as the request for a direction to the Respondents to refund Rs 39,32,197/- with interests is concerned, the consent given by the Appellant prevents grant of such relief because with open eyes and knowing pretty well about the implication, the appellant agreed to the terms imposed by the Respondents for conversion of 11KV to 33KV supply, even though the Appellant is not entitled to. The plea of the Appellant that they were forced to pay Rs 39,32,197/- more during the said period is not correct and tenable. For a long period this forced payment is not alleged. Thus the Appellant is found not entitled to refund of an amount of Rs 39,32,197/-.

19. It is clear from the terms of supply and terms of GTCS that the transmission losses in 11KV supply would be more and in 33KV supply less and by supplying energy at 33KV level, the DISCOM is not sustaining any more loss than in 11KV supply and therefore, the DISCOM at present charging more which appears to be unreasonable and unjustified.

20. In view of the foregoing discussion, it is clear that the terms imposed on the Appellant even with consent for collecting 11KV tariff on 33KV supply is impermissible and it is not contemplated anywhere and imposing such term by the DISCOM is not justified. This consent given by the Appellant made the DISCOM to sanction 33 KV supply which cannot be ignored. Thus the claim of the Appellant that

charging 11KV tariff for 33KV supply is not permissible is tenable and it is upheld. There shall be a direction to the DISCOM to collect only 33KV tariff to the supply subsequent to the period of lodging of the present complaint. The issues are answered accordingly.

21. The Appeal is allowed partly as follows:

- a. Charging 11KV tariff for the energy supplied under 33 KV is not correct, but for the consent of the Appellant at the time of approval of 33 KV supply for CMD of 470 KVA though Clause 3.2.2.1 of GTCS did not contemplate it.
- b. The Appellant is found not entitled to refund of Rs 39,32,197/- in view of the implied consent, which lead to approval for conversion of 11 KV supply to 33 KV supply legitimising the charges collected so far under 11 KV supply.
- c. There shall be a direction to the DISCOM to stop charging for 11 KV supply and to collect 33 KV supply charges only from the period subsequent to 21.10.2017(the date of complaint before CGRF).
- d. The impugned orders are accordingly set aside.

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

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the14th day of March, 2018.

Sd/-

**Vidyut Ombudsman**

1. M/s. Binjusaria Sponge & Power Pvt. Ltd. C-1, Govt. Industrial Estate, Chandulal Baradari, Hyderabad. Cell: 9391033606.
2. The DE/OP/Shadnagar/TSSPDCL/ RR Dist.
3. The SAO/OP/Rajendra Nagar Circle/TSSPDCL/Hyderabad.
4. The SE/OP/Rajendra Nagar Circle/TSSPDCL/Hyderabad.



**Copy to :**

5. The Chairperson, Consumer Grievance Redressal Forum, Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
6. The Secretary, TSERC, 5<sup>th</sup> Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.