



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

Monday, the Sixth Day of February 2017

Appeal No. 60 of 2016

Preferred against Order Dt. 05.08.2016 of CGRF In

CG.No: 31/2016-17 of Mahaboobnagar Circle

Between

M/s. GTL Infrastructure Limited, Represented by Sri. K. Tarakeshwara Rao,
Plot Nos. 207 & 208, Navaketan Complex, Opp: Clock Tower, SD Road,
Secunderabad. Cell No. 9966957863.

... Appellant

And

1. The AE/OP/Manopad/TSSPDCL/Mahaboobnagar Dist.
2. The ADE/OP/Alampur/TSSPDCL/Mahaboobnagar Dist.
3. The AAO/ERO/Gadwal/TSSPDCL/Mahaboobnagar Dist.
4. The DE/OP/Gadwal/TSSPDCL/Mahaboobnagar Dist.
5. The SE/OP/MBNR Circle/TSSPDCL/Mahaboobnagar Dist.

... Respondents

The above appeal filed on 14.10.2016 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 20.12.2016 at Hyderabad in the presence of Sri. K. Tarakeshwara Rao - Appellant and Sri. D. Chinna Subba Rayudu - AAE/OP/Manopad, Sri. Abdul Saleem - AAO/ERO/Gadwal, Sri. B. Srinivasulu - DE/OP/Gadwal 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 provider of infrastructure facilities in the telecommunication towers with SC No. 0672901617, at Undavalli village of Manopad mandal. The Appellant claimed that it had received an abnormal bill for Rs 9,38,040/- for the month of April,2016 served on 8.5.2016. The representative of the Appellant had immediately brought this abnormal bill to the notice of the concerned AE, who in turn gave a demand notice No. 480/2015 Dt.15.2.2016 containing the information that the site was

inspected on 21.9.2015 and on 12.2.2016 and the meter was replaced on the ground that 'R' and 'B' phases voltage had dropped to Zero, with a proposal for short billing from 8.9.2014 to 12.2.2016. The Appellant claimed that the DISCOM officials have been issuing CC bills regularly noting the readings in the meter and the Appellant has been paying the bills. The DISCOM officials should inspect the service connection once in 6 months and see that the metering equipment is in good condition and had this inspection routine been followed, the meter would have been replaced when found defective and there would have been no occasion to resort to short billing. The Appellant reported the matter to DE/OP/Gadwal/R4 in this regard without any response.

2. The Appellant further claimed that the short billing was resorted to based on the load on 24 x 7 basis for the entire 10 KW load and the consumption was assessed as 113179 units which is totally unfair. The consumption pattern and load according to the Appellant is as follows:

Month	Units Consumed	Load
March,2016	1420	1.97KW
April,2016	1540	2.13 kw
May,2016	1440	1.96 KW

The Appellant claimed that its site consumption is in the order of 870 units per month totalling 14792 units during the assessment period, because the Air Conditioner was not in working condition. Further the Appellant used diesel power in the absence of DISCOM power and the average running of Diesel power was 97.37 Hrs per month.

3. The Appellant, on the basis of its representation sought withdrawal of the short billing notice.

4. The 1st Respondent AE/O/Manopad submitted a reply dt.14.7.2016 before the CGRF stating that AE/DPE inspected the service connection on 21.9.2015 and found voltages in 'R' and 'B' phases as Zero. He logged the existing data in CMRI and referred to M&P wing for testing and rectification of the defect. As per MRI data on 21.8.2015, the instant values of R, Y, B phases were 0.0, 268.70, 0.0 and the cumulative tamper count was : 11 (CT/PT STATUS SUMMARY). The M&P wing tested the meter on 12.2.2016 and connected ERS (Electronic Reference Standard) kit parallel to the defective (old) meter and the following was the result:

Dial Test on consumer load with ERS Meter			
Old Meter	K.W.H	KVARH	KVAH
ERS Consumption	0.86492	0.190301	0.93379
MRI Consumption	0.117801	0.02592	0.122002
% Error	-86.44%	-84.6696%	-0.86.93

5. The 1st Respondent/AAE/O/Manopad claimed that the short billing was proposed for the period from 6.9.2014 to 13.2.2016 duly adopting the percentage error in metering as per the M&P wing test report which is noted below:

1. No. of units recorded by the defective meter from 06.09.2014 to 12.02.2016 = 14792 units.
2. No.of units that would have been recorded if the meter had been working normally

$$\frac{14792 \times 100}{100\% + (-86.93\%)} = \frac{1479200}{13.07} = 113179 \text{ Units}$$

3. Energy lost during the period : 113179 - 14792 = 98387
4. Cost of energy /unit : Rs 9.47
5. Value of energy lost = 98387 x Rs 9.47 = Rs 9,32,136.00
6. Electricity duty charges : 98387 x Rs 0.06 = Rs 5,904.00

Total amount payable = Rs 9,38,040.00

6. The representative of the Appellant, during the hearing, requested for withdrawal of the bill and whereas, the 1st Respondent claimed that on the basis of the MRI report, it was found that 'R' & 'B' phases voltages were missing, and hence, short billing has been proposed for the defective meter from 6.9.2014 to 12.2.2016 duly adopting the percentage error in the meter as -86.93 %. The 3rd Respondent/AAO/ERO/Gadwal represented that for the meter defective period, the short billing assessed was for Rs 9,38,040/- which will be included in the CC bills.

7. On the basis of the material available and contentions, the CGRF accepted the claim of the DISCOM that there was zero voltage found in 'R' and 'B' phases and the percentage error was 86.93 % and therefore, the DISCOM resorted to back billing on the

basis of the MRI data, which is clearly established and thus the back billing was validly done and the Appellant is liable to pay the amount, through the impugned orders.

8. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal claiming that to its surprise, the Appellant received CC bill for Rs 9,38,040/- for the month of April,2016 received on 8.5.2016 and immediately, the representative of the Appellant contacted the 1st Respondent/AE to understand the abnormal bill etc. The Appellant claimed that they have been paying the bills regularly after issue of CC bills based on the meter readings with status 1 (normal). The DISCOM officials ought to have inspected the service every 6 months and further the short billing cannot be raised for more than 6 months from the date of EB meter defective period. The Appellant contended that the assessment calculation based on the entire 10KW load as site load under 24 x 7 basis and arriving at the assessed units 113179 is totally unfair and incorrect, since there could be no service consuming the entire contracted load on 24 x 7 basis. The Appellant claimed that this could be proved by taking the basis after meter change i.e. on 12/2/2016 and by observing the consumption units for the months of March,2016 (billed units 1420 i.e, site load is 1.97 KW) April,16(billed units 1540 i.e, site load is 2.13 KW) and May,16 (billed units 1414, site load is 1.96kw). The site consumption in contrast was in the order of 870 units per month, totalling 14792 units during the assessment period, because the Air Conditioner of the Appellant was not in working condition. Further the Appellant has used diesel generator during the absence of DISCOM power and per month the average usage of diesel generator was 97.37hrs per month. Therefore, the short billing assessment is totally unfair and arbitrary.

9. In the Appeal the AAE/OP/Manopad submitted a reply dt.3.11.2016 stating that the service connection was inspected by AE/DPE of MBNR circle on the complaint of Ex-AE/OP/Manopad on 21.9.2015 for missing voltages and found the following:

- i. there is no seal to meter box and other seals were intact.
- ii. Healthy 3-ph power supply was available to the service.
- iii. 'R' and 'B' voltages were found zero on the meter display.
- iv. The existing meter data logged into CMRI.
- v. The meter was found defective. The AAE claimed that as per the MRI data on 21.9.2015, the instant value of R,Y, B were 0.0, 268.70, 0.0 and the Cumulative Tamper Count : 11(CT/PT STATUS SUMMARY) enclosed.

He further stated that M&P wing of Gadwal inspected the service on 12.2.2016, tested the meter with Accu Chek / Electronic Reference Standard (ERS) meter at test site and arrived at % error and billed for the defective period as follows:

Dial Test on consumer load with ERS Meter			
Old Meter	K.W.H	KVARH	KVAH
ERS Consumption	0.86492	0.190301	0.93379
MRI Consumption	0.117801	0.02592	0.122002
% Error	-86.44%	-84.66%	-0.86.93

10. The AAE/OP/Manopad further stated that in view of missing voltages in 'R' and 'B' phases, the meter recorded less than actual consumption and on the basis of the Meter Relay Testing (MRT) wing report, short billing was proposed as per GTCS conditions. As per the GTCS annexures XII(VII)(C), the period of voltages missing can be arrived at from the dumps logged in from the Meter Reading Instrument (MRI) and he gave the calculation of the total amount payable as Rs 9,38,040/- as mentioned by the 1st Respondent/AAE/OP/Manopad before the CGRF.

11. The AAE/OP/Manopad through a reply dt.20.12.2016 stated that the defective meter with reference to ERS meter was tested as per the procedure. The Readings in the MRI data tallied in the manual meter readings shown in the EBS sheet when compared with MRI dump dates 09.2014,09.2015 and 02.2016. The percentage of error arrived at was -86.93% because of sluggishness of the meter due to complete missing of 'R' and 'B' phase voltages and partial missing of Y-phase voltage, when compared to ERS meter and therefore, the exact error in the meter could not be ascertained.

12. The AAE further stated that the average interruption to the Appellant tower was less than one hour per day during the period covered by 06.09.2014 to 12.02.2016. He further stated that the short billing was done for average consumption of 6287 units per month based on percentage error and the recorded consumption at various points of times i.e. During inspection by DPE wing, during testing and replacement of meter by M&P wing and thus the Appellant has to pay the short billing amount. He further stated that

the Appellant has not submitted any proof regarding loading pattern in spite of repeated requests and had not approached the Appellate Authority/SE/OP/MBNR.

13. In view of the nature of allegations and facts, the efforts at mediation failed to succeed. Hence the matter is being disposed of on merits.

14. On the basis of material on record, the following issues arise for determination:

1. Whether short billing resorted to by the DISCOM for the period from 06.09.2014 to 12.2.2016 is valid and sustainable?
2. Whether the Appellant is liable to pay Rs 9,38,040/- minus the amount paid if any during the interim stay of disconnection dt. 9.11.2016?
3. Whether there was lack of official diligence in checking the meter periodically avoiding back billing for long period of time?
4. Whether the impugned orders are liable to be set aside?

ISSUES 1 to 4

15. The Appellant claimed that the DISCOM officials have been issuing CC bills regularly and the Appellant has been paying the bills promptly. The Appellant contended that the inspection of the service by AE/DPE on 21.9.2015 and discovery of failure of voltages in 'R' and 'B' phases, is totally incorrect because there was nothing to indicate earlier that the CC bills issued showed any less consumption figures. The Appellant further contended that the DISCOM has resorted to short billing based on the load in 24 x 7 basis for the entire 10 KW load which is totally unfair and there was absence of any calculation by the DISCOM about the diesel power, which was drawn for 97.37 hrs per month.

16. The DISCOM is not accepting the claim of the Appellant on consumption of diesel power/calculation of the entire 10KW load for 24 x 7 basis. The DISCOM is relying on the inspection report disclosing voltages in 'R' and 'B' phases as zero. It was the AE/DPE/MBNR who logged the existing data in CMRI and then referred to M&P wing for testing and rectification of the defect. As per the MRI data on 21.8.2015 the instant values of R,Y, B phases were 0.0,268.70,0.0 and the result was as shown in para 4 supra showing the error. Based on the consumption as disclosed in the MRI data, which showed the exact consumption of unit on the basis of the record consumed by the Appellant was

taken into account and short billing was resorted to from 6.9.2014 to 13.2.2016 amounting to Rs 9,38,040/- as calculated in para 5 supra.

17. The contention of the Appellant regarding regular payment of bills and use of diesel generator and the short billing based on 24 x 7 basis has no bearing on the consumption discovered in MRI data, which is found to be accurate and reliable.

18. The DISCOM calculated the assessment of short billing as shown in the following table :

Tariff 2014-15				
For period from 01.09.2014 to 31.03.2015				
Energy charges				
Units	No.of Months	Cumu.Units	Rat/Unit	Rs
50	7	350	6.63	2320.5
50	7	350	7.38	2583
200	7	1400	8.13	11382
200	7	1400	8.63	12082
500		34762	9.13	3137377.06
Total		38262		345744.56
Fixed charges (Rs 50/- per KW X 10 KW x 7 Months)				3500
Customer charges (Rs 40 * 7 months)				280
Total (A)+(B)+(C)				349524.56

Tariff 2015-16					
For period from 01.04.2015 to 28.02.2016 No.of Months 11					(18 months)
Energy charges					
Units	No.of Months	Cumu.Units	Rat/Unit	Rs	Total (Rs)
50	11	550	6.6	3630	5950.5
50	11	550	7.8	4290	6873
200	11	2200	8.6	18920	30302
200	11	2200	9.1	20020	32102

500		54625	9.7	529862.5	847239.56
Total		60125		576722.5	922467.06
Fixed charges (Rs 50/- per KW X 10 KW x 11 Months)				5830	9330
Customer charges (Rs 40 x 11 months)				440	720
Total (A)+(B)+(C)				582992.5	932517.06

Electricity Duty 98387 Units x Rs 0.06 Paise per unit)	5903.22
	938420.28

19. The Appellant contended that there was no mention of irregularity in the regular CC bills which were issued with status '1'(normal). This position does not show that the consumption of energy as disclosed in the MRI data is defective. The status as normal would go to show that the concerned officials of the DISCOM were negligent and not diligent while noting down the meter reading, otherwise they would have noticed about zero values in 'R' and 'B' phases. Another contention of the Appellant is that the short billing cannot be raised for more than 6 months in the case of defective meter, especially when seals were intact and the meter was not tampered with. The Appellant submitted comparative analysis against the assessment made by the Respondents, after the defective meter was replaced on 12.2.2016 as follows:

Month	Consumption in units	Site load
March,16	1420	1.97 KW
April,16	1540	2.13 KW
May,16	1414	1.96 KW

The Appellant contended that the consumption during the assessment period was 870 units prior to replacement of the meter. He further contended that the Respondents have not taken into consideration about non working of the Air Conditioner and power supply failures. The Respondents contended that the assessment was carried out based on the recorded consumption of the meter and that when there is no power supply, the meter does not record any consumption and similarly, they have contended that the load of defective Air Conditioner does not reflect in the meter.

20. The plea of the Appellant about not being informed about the defective meter and replacement of the meter, is not correct. The initial inspection conducted by the

DPE wing reported in the LT inspection report dt.21.9.2015 that the consumer refused to give his statement and the test report of LT CT meters of AE/M&P dt.12.2.2016 records the signature of the consumer.

21. The consumers plea for limiting the assessment period to an extent of 6 months is not tenable in view of the amended Clause of the GTCS Proceeding No.APERC/Secy/96/2014 Dated 31-05-2014, which is as follows:

*For Clause 7.5.1.4.4, the following Clause shall be substituted, namely:-
 “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, however, the period during which such status of defective meter cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.”*

The above Clause Permits the Assessment for the entire period during which the status of the defective meter was established as in the present case.

22. The assessment levied taking total 10KW load for the entire 24/7 days is not correct. The assessment is based on the GTCS Annexure XII(VII)(C), Guidelines for assessment of short billing cases which is reproduced here under for clarity:

“Meter is to be tested with Accucheck / Electronic Reference Standard (ERS) Meter at site and % Error is to be arrived at and billed for the period when the meter was defective. If the period of the defect can be established with the aid of production figures of consumer and MRI dumps (Meter Reading Instrument), the assessment is to be undertaken for the period when the meter was defective as per the formula.

	Unit of measurement	Formula
No.of units recorded by the defective meter from ____ to -----	Units	A
No.of units that would have been recorded if the meter had been working normally	Units	$B = A * 100 / (100 + \% \text{ Error})$ Where the % value is a negative value
Energy lost during the period	Units	$B - A = C$
Cost of energy	Rs per unit	D
Value of energy lost	Rs	$C * D = E$
Total electricity charges payable	Rs	E

The % error as per the ERS kit was arrived at -86.93%. As per the MRI dumps (Meter Reading Instrument) the irregularity of two phases “R” and “B” voltages were missing since 6.9.2014. Hence the short billing levied as per the calculations and the guidelines which is in order and the contention of the Appellant on this aspect is found untenable.

23. There is a significant aspect found in this case. The provisional assessment order is dt.15.2.2016 from the 2nd Respondent/ADE/OP/Alampur for Rs 9,38,040/- containing a Clause to prefer representation to the DE/O/Gadwal within 15 days from the date of service and whereas, the final assessment order is dt.23.2.2016 confirming the same amount. There is a gap of about 8 days between the provisional and the final assessment orders. The Provisional Assessment order gives 15 days time from date of service to prefer representation. When the provisional assessment was served on the Appellant and when the Appellant was given opportunity to submit objections, is absolutely not on record. This gap of 8 days in disregard of 15 days notice is creating suspicion about the way in which the final assessment order was passed and whether the Appellant was given sufficient notice to make representation, which is not properly explained by the Respondents. The final assessment order, it appears, has been passed in a mere mechanical manner, without giving proper opportunity to the Appellant to make a representation. If such is the situation, the purpose of passing final assessment order is as good as defeated.

24. The Appellant is aggrieved that the defect if any was not identified by the DISCOM officials promptly and keeping the Appellant in the dark, after a long time, the short billing has been resorted to on the ground that two phases in the CT meter have not displayed the consumption. The meter display of the CT meter would clearly show two phases voltage missing during the recording of consumption, which was not identified immediately soon after starting of the defect, resulting in heavy burden at one time on the consumer and it also shows the callous discard shown by those officials who were entrusted with the meter reading and billing. Thus the meter readers who were responsible between 6.9.2014 and 12.2.2016 must be held accountable for the present issue and action should be taken against them. Under these circumstances, the delay payment surcharge should be waived in this matter and the resultant loss if any to the DISCOM should be recovered from the staff of the DISCOM responsible for the negligence and delay in identifying the defective meter and voltages missing on R and B phases.

25. The Appellant in view of the aforementioned reasons, is found liable to pay Rs 9,38,040/- minus the amount it paid pursuant to the interim stay of disconnection

order dt.9.11.2016. In view of the back billing for a long period, the Appellant is found entitled to instalments. The impugned orders are thus found in order and liable to be confirmed. The issues are answered accordingly.

26. In the result, the Appeal is disposed of directing as follows:

1. The short billing resorted to by the DISCOM for the period from 6.9.2014 to 12.2.2016 is valid and sustainable.
2. The delayed payment surcharge for the period from 6.9.2014 to 12.2.2016 should be waived and loss if any on this aspect be recovered from those members of the staff who were found negligent in the non discovery of the defective meter for 1 year five months.
3. The Appellant is liable to pay Rs 9,38,040/- minus the amount paid by the Appellant if any in this case, in 10 equal instalments as per Clause 9 of the amended Regulation 7/2013 starting from the CC bill of March,2017. Failure to pay any single instalment shall make the entire amount due with its consequences.
4. There was lack of official diligence in checking the meter reading regularly so as to avoid back billing for a long period of time. The DISCOM is directed to make an enquiry, find out and fix responsibility for the negligence which occurred between 6.9.2014 and 12.2.2016 and recover the delay payment surcharge amount if any from those found responsible.
5. The impugned orders are confirmed.

27. 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 on 6th day of February, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. M/s. GTL Infrastructure Limited, Represented by Sri. K. Tarakeshwara Rao, Plot Nos. 207 & 208, Navaketan Complex, Opp: Clock Tower, SD Road, Secunderabad. Cell No. 9966957863.
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6. The SE/OP/MBNR Circle/TSSPDCL/Mahaboobnagar Dist

Copy to:

7. The Chairperson, Consumer Grievance Redressal Forum, Rural, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
8. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapool,Hyd.