



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: Smt. UDAYA GOURI

Monday the Seventeenth Day of June 2019

Appeal No. 68 of 2018

Preferred against Order dt:31.12.2018 of CGRF in
CG No. 383/2018-19 of Vikarabad Circle

Between

M/s. Sugna Metals Limited, #1-8-673, Azamabad, Hyderabad - 500 020.

Cell: 9848346211.

... Appellant

AND

1. The DE/OP/Vikarabad/TSSPDCL/ RR District.
2. The SAO/OP/Vikarabad Circle/TSSPDCL/Hyderabad.
3. The SE/OP/Vikarabad Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 07.03.2019, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 21.05.2019 at Hyderabad in the presence of Sri. Bharat Kumar - On behalf of the Appellant Company and Sri. M. Venkata Chary - DE/OP/Vikarabad and Sri. M. Madhav - SAO/OP/Vikarabad Circle for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

This is an Appeal against the orders of the CGRF/Vikarabad Circle in CG No. 383/2018 dt.31.12.2018.

2. The Appellant stated that it has filed a complaint before the CGRF seeking for setting aside the claim of Licensee/Respondents on its HT service connection bearing No. VKB 1247 for an amount of Rs 5,74,402/- towards late payment charges claimed in the regular CC bills of June,2018 on their service connection and also to set aside the demand charges claimed of Rs 12,16,652/- in the regular CC bill of

June,2018 above the normal rate stating that the consumer company is registered under the Companies Act having service connection of HT connection with Contracted MD of 30999 KVA for supply of energy and demand from the Licensee. The Appellant further stated that the consumer company is also scheduled Open Access consumer and during June,2018 billing month the consumer i.e. the Appellant found discrepancies in respect of claim of late payment charges and demand charges without adjusting of entitled demand for an energy consumed from Open Access and in spite of representations the Respondents have not responded and the learned CGRF failed to appreciate the facts and disposed the matter in favour of the Respondents. Hence filed the present Appeal. The Respondents on the other hand denied the same and reiterated their claim.

3. The Appellant in support of its averments in the Appeal stated that the Appellant i.e. M/s. Sugna Metals Ltd. is provided with HT service connection No. VKB 1247 and for the month of June,2018 the Respondents sought for an excess claim of Rs 5,74,402/- towards late payment charges and Rs 12,16,652/- towards Open Access and claimed charges without giving an opportunity to the Appellant to lead any oral or documentary evidence to substantiate their stand and the Respondent No.1 did not even inform the date of hearing of the CG 380 of 2018 after reopening the said case and further submitted that the Respondent No.3 and 4 raised the CC Charges bill dt.26.06.2018 for the Billing Month of June, 2018. In the said bill they have claimed an amount of Rs 5,74,402/- towards Late Payment Charges and not adjusted the entitled demand of 3119.62 KVA of Open Access consumption of 3151133 KWH. Aggrieved by the same the appellant filed a representation Dated 23.7.2018 before Respondent. No 3 and 4 Under Clause VII 7. 1 (i) of Regulation 5 of 2016. The Respondent No. 3 and 4 ought to have resolved the grievance of the Appellant within 24 working hours. But the Respondents have not resolved the same. Hence, the appellant approached before Hon'ble CGRF II Under Sub Section 2. 32 (e) of Regulation 3 of 2015. The Hon'ble CGRF II registered the complaint as CG No. 383 of 2018-19/Vikarabad Circle.

That the Appellant also filed an interim application before Hon'ble CGRF II for appointment of third party (other than licensee) to undertake an inspection and obtain report in the complaint prescribed under Clause 2.41 of Regulation 3 of 2015. It is pertinent to note that the Hon'ble CGRF II has not appointed the third party even though the Appellant made repeated requests.

That the Respondent No. 4 filed its counter vide Letter No. SE/OP/VKB/SAO/HT/D. No. 1293/ 2018 dated 17.09.2018 during the hearing held on 18. 09. 2018.

That the Appellant filed its rejoinder on 5.11.2018 against the Counter of Respondent No.4 of letter No.1293 dt.17.09.2018 before Hon'ble CGRF II.

That the Respondent No. 4 filed its second counter vide Lr. No.SE/OP/VKB/SAO/HT/D.No.1730/2018 dt.17.11.2018 against the rejoinder dt.05.11.2018 of the Appellant.

That the Appellant on 05.12.2018 filed an Interim Appeal before CGRF-II with a prayer to reopen the complaint which was reserved on 19.11.2018.

That the Hon'ble CGRF II passed the order dt.31.12.2018 of CG No.383/2018-19/Vikarabad Circle.

4. It is Pertinent to note at this juncture that the Hon'ble CGRF has not furnished the original copy of the Said order. When the representative of the appellant approached the CGRF on 18.2.2019 to file a complaint enquired about the order of C.G.No. 383/2018-19 at that time the Hon'ble CGRF furnished a copy of the said order only.

That the Hon'ble CGRF II passed the said order without giving and opportunity to the appellant of hearing, without considering and applying judicial mind properly on the following facts :-

- a. The Respondent No. 3 and 4 in its counter bearing letter No. 1293 dt.17.09.2018 categorically admitted that out of Rs. 5,74,402/-of late payment charges Rs. 3,20,355/- they have claimed on Rs 2,06,68,064/-of arrears Rs.11,986/-claimed on Rs 2,39,71,330/- for one day Rs. 80,000/-claimed on Rs 2,00,00,000/- for 8 days and Rs 1,10,000/- claim on Rs. 2,00,00,000/-for 11 days. It is pertinent to note that the claim of Rs 3,20,355/-on arrears of Rs. 2,06,68,064/- is in violation of provision of tariff order, regulation and Act. More specially when the Respondent No. 3 and 4 did not establish before Hon'ble CGRF II how they arrived the arrears of Rs 2,06,68,064/- as on 26.06.2018.

- b. The Respondent No. 3 and 4 in its counter bearing letter No. 1293 dt.17.09.2018 categorically admitted that out of total consumption of. 14764500 KVAH the Appellant has consumed 3151133 KWH from Open Access. The Hon'ble CGRF II failed to consider and understand by applying its mind properly that as per Clause 8.2 of Regulation 2 of 2006 and Clause 7 of Proceeding No.APERC/Secy/25/2013 dated 4.5.2013 the Appellant is entitled for adjustment of Open Access Demand for the consumption of 3151133 KWH. It is pertinent to note that the Hon'ble CGRF II in similar complaint passed the order dated 23.02.2016 in CG No. 649/2015-16/RangaReddy South Circle directing the Respondents to consider clause 8.2 of Regulation 2 of 2006 for settlement of Open Access Demand similar to Clause 8.2 of Regulation 2 of 2006 for settlement of Open Access Demand similar to Clause 8.1 of Regulation 2 of 2006 considered in settlement of Open Access Energy.

5. That the Appellant pray to this Hon'ble Vidyut Ombudsman to allow the present appeal and remand to Hon'ble CGRF II for disposing the case giving opportunity to the appellant to lead oral as well as documentary evidence on the following facts before passing the final order :

- a) How Rs. 2,06,68,064/-is arrived as on 26.6.2018. Direct to furnish the complete details of month wise and component wise break up ; and
- b) Furnish the justification why the Clause 8. 2 of Regulation 2 of 2006 and Clause 7 of Proceeding No. APERC/Secy/25/2013 dated 4.5.2013 is not considered. Before passing the above orders.

It respectfully submitted that if Hon'ble CGRF II deem fit that third party is appointed as prescribed in Clause 2.41 of Regulation 3 of 2015 for obtaining the report to furnish the finding, they can appoint. The required fees will be paid by the, Appellant immediately on the receipt of information from Hon'ble CGRF II.

That in view of the above said facts, the appellant pray that the Hon'ble Vidyut Ombudsman may be pleased to allow the present Appeal thereby remand the matter to CGRF-II for de novo enquiry or decide the Appeal on merits directing the Respondents:-

a) How Rs. 2,06,68,064/-is arrived as on 26.6.2018. Direct to furnish the complete details of month wise and component wise break up ; and

b) Furnish the justification why the Clause 8. 2 of Regulation 2 of 2006 and Clause 7 of proceeding No. APERC/Secy/25/2013 dated 4.5.2013 is not considered before passing the above said order.

UNDER SUB CLAUSE 3.35 OF REGULATION 3 OF 2015

A) Set aside the Respondent No.1 order dt.31.12.2018 passed in CG No. 383 of 2018-19/Vikarabad Circle;

B) Set aside the claim of Rs. 3,20,355/-claimed towards, late payment charges in June,2018 bill dated 26.06.2018.

C) To adjust the entitled open access demand as prescribed in Clause 8.2 of Regulation 2 of 2006 and Clause 7 of Proceeding No. APERC/Secy/25/2013 dated 4.5.2013; and

D) Any other order or orders as may deem fit and proper by the Hon'ble Vidyut Ombudsman for the State of Telangana under the circumstances of the case in the interest of justice and fair play.

6. The Respondents through SE/OP/Vikarabad submitted the written statement vide Lr.No.SE/OP/VKB/SAO/HT/D.No.15/2019 dt.03.04.2019 stating that the Late payment surcharge of Rs. 5,73,936.39 & Ed Int. 465.74 in CC Bill for the month of June, 2018 bill pertains to the arrears pending as on 31-03-2018 and late payment of CC Bill of April.2018 (due date 10.05.2018).

Payment has made on 11th May, 2018 delay 1 day Rs. 2,50,00,000/-, 2nd Payment made on 18th May, 2018 Rs. 2,00,00,000/-delay 8 days. 3rd payment made on 21st May, 2018 Rs. 2,00,00,000/- and 4th and final payment of April, 2018 CC Bill on 22nd May, 2018 for Rs. 85,99,287/-Calculation of Delayed payment surcharge on day to day basis @0. 0005 paisa per rupee.

Due Date	Payment Date		Balance	Days	Rate	Total
10.05.2018	11.05.2018		20668064.85	31	0.0005	320355.01
10.05.2018	18.05.2018		23971330.29	1	0.0005	11985.67

10.05.2018	21.05.2018		20000000.00	8	0.0005	80000.00
10.05.201	22.05.2018		20000000.00	11	0.0005	110000.00
Total surcharge on arrears and late payment charges against CC Arrears						573936.39
10.05.2018	11.05.2018	ED.Int	708314.70	1	.24	465.74
Total CC Arrears Int & ED int. Levied in June 2018 CC bill						574402.13

Non Adjustment of Entitled Demand of open Access and claim of Rs. 12,16,652/-Excess towards Demand Charges

It is to inform that the demand of 30360 KVA in the original bill issued based on the check meter reading and the revised bill Issue after taken the main meter dump and after adjustment of open access demand. The working sheet is herewith enclosed in Annexure-I. The Maximum RMD of 30600 KVA is consumed on 11-06-2018 at 13.45 to 14.00 hrs in 15 minutes block interval. Hence no adjustment of demand is required.

7. The Appellant filed the rejoinder on 17.04.2019 stating that It is respectfully submitted that the Respondent No. 4 has claimed the Late payment Charges of Rs.5,74,402/-in June,2018 Bill and informed that the said claim is against the late payment of April, 2018 bill payment. It is to be noted that out of Rs 5,74,402/- and amount of Rs 3,20,355/- is on arrears of Rs 2,06,68,065/- and balance Rs 2,54,047/- is on late payment of April,2018 bill.

In this regard please note the Respondent No.4 vide Lr.No. SE/OP/VKB/SAO/HT/D. No. 16/2019 dated 3.4.2019 filed before this Hon'ble Authority in Appeal No. 67 of 2018 categorically admitted that as on 31.3.2018 an amount of Rs 1,98,38,567/-is in credit. Hence, the claim of Rs. 3,20,355/-on arrears of Rs 2,06,68,065/-is not correct illegal and liable to be set aside.

That the Respondent No. 4 informed that the June,2018 bill issued revised bill after taking the main meter dump and after adjustment IDF open access demand. In this regard please note that the entitled demand of Open Access is not adjusted. The details are as follows :-

The RMD of June, 2018 Billing Month is 30600 KVA. Out of which Open Access Demand will work out to 3119. 62 KVA as per Clause 8.2 of proceeding N'o.

APERC/Secy/25/2013 dated 4. 5. 2013 hence, the respondent no. 4 ought to have claimed the demand charges on 27480. 38 KVA only @ Rs. 390/-per KVA but claimed the demand charges on total RMD of 30600 KVA @ Rs.390 per KVA, due to which an amount of Rs. 12, 16, 652/-excess claimed which is in violation of Clause 8.4 of Regulation 2 of 2006 dated 11.8.2006 and clause 7 of proceeding No. APERC/Secy/25/2013 dated 4. 5. 2013.

That the relevant portion for determination of Open Access Demand and adjustment from RMD are reproduced hereunder for kind ready reference of Hon'ble Authority duly highlighting the operational portion :-

The clause 7 of proceeding No. APERC/Secy/25/2013 dated 4.5.2013 is reproduced hereunder for your ready reference :-

'7. The procedure to consider Open Access (OA) demand. component for billing is explained below:-

For each time block, total recorded energy and total, recorded demand is available in the meter. Similarly for each time block, power availed through open access for both energy and demand is also available from Energy Balancing Centre (EBC).

Detailed method of arriving Maximum Demand (MD) consumed from DISCOM in a month is explained with the help of table shown below for nine time blocks:

To get demand consumed from DISCOM shown in column (8), deduct the OA Recorded Demand (shown in Column 7) from total Recorded Demand (RD) (shown in column 5).
i. e., Demand consumed from DISCOM = (Total Recorded, Demand -OA Recorded Demand).

Sl. No	DISCOM Contract ed Demand	OA Contracte d Demand	Total Demand form all the sources	Total Recorded units in 15 minutes	Total Recorded Demand (RD)	OA Units in 15 minutes	OA Recorded Demand (kVA)	DISCOM Recorded Demand (kVA) (Col5 - Col7)
1.	600	400	1000	200	800	98	392	408
2.	600	400	1000	200	800	88	352	448
3.	600	400	1000	197.5	790	98	392	398
4.	600	400	1000	197.5	790	98	392	398
5.	600	400	1000	202.5	810	78	312	498
6.	600	400	1000	195	780	75	300	480

7.	600	400	1000	194.5	778	69	276	502
8.	600	400	1000	195	780	93	372	408
9.	600	400	1000	205	820	84	336	484

Of all the nine demands of column (8) the Maximum Demand is 502 KVA mentioned in row (7). The same logic can be extended for 2880 time blocks (15 minutes) in a month. The AP Transco/ DISCOMs (Energy Billing Centre) account the Demand component from open access while issuing the bills. To arrive at the Recorded Maximum Demand (RMD) of DISCOM, the licensee shall follow the method shown in the above example.

In this regard the following clause 2.2.35 of General Terms and Conditions of supply also to be noted approved by the then Hon'ble APERC vide proceeding No. Secy/01/2005 dt. 6. 1. 2006 is as follows :-

"° Maximum Demand" means twice the maximum number of Kilo Volt - ampere hours (kVAH) delivered at the point of supply to the consumer during any consequent 30 minutes during the month. In respect of consumer having contracted demand of than 4000 kVA. However for the consumer having contracted demand of 4000 KVA and above the maximum demand means four times of the maximum number of kilo volt ampere hours (kVAH) delivered at the point of supply to the consumer during any consecutive 15 minutes during the month."

As per Clause 8.4 of Regulation 2 of 2006 dated 11.8.2006, the DISCOM have to deduct the entitled Open Access Demand from Recorded Maximum Demand and bill for balance demand at applicable Tariff Rate only as per Clause 7 of proceeding No. APERC/Secy/25/2013 dt. 4.5.2013.

The clause 8.4 of Regulation 2 of 2006 dated 11.8.2006 is reproduced hereunder:-

"8.4 The scheduled demand at Exit point or the actual demand made available to a consumer from each OA Generator at that Exist point in a time block whichever is less shall be deducted from the recorded demand (in the inter-se-order of such Generator as confirmed by the SLDC while finalising the day ahead schedule, in case the consumer is availing energy from more than one Generator. The balance demand for each time block shall be deemed to have been consumed from the DISCOM and shall be paid as per the terms of the supply agreement with the DISCOM.

As per the Interim Balancing and Settlement (IB & SC) Code, the DISCOMs have to consider both energy and demand availed through open access while preparing bill as per Clause 6 of Proceeding No. APERC/Secy/25/2013 dated 4.5.2013.

It is pertinent to note also the following condition of terms and conditions of wheeling tariff dated 27. 3. 2015 pertaining to the 3rd period which is as follows:-

The distribution licensee shall deliver the quantum of and capacity given to it for wheeling reduced by the distribution losses.

8. The SE/OP/Vikarabad submitted his reply to the rejoinder filed by the Appellant vide his letter dt.08.04.2019 as follows:-

CLAIM of Rs. 5,74,402/-

M/s. Suguna Metals P. Ltd SC. No. VKB 1247 is not taking into consideration of the Arrears of CC charges as on 30.04.2015 amounting to Rs 2,17,17,234.29 for which late payment charges are being levied from time to time.

NON Adjustment of Entitled Demand of Open Access and Claim of Rs. 12,16,652/- Excess towards Demand Charges

The reply previously given holds good.

9. The Appellant filed his written arguments vide his letter dt.21.05.2019 as follows:-

That the Electricity Act, 2003 vide Section 42 (2) conferred with the responsibility to the state Electricity Regulatory Commission to introduce open access in phase manner on payment of Cross Subsidy Surcharge in addition to the charges for wheeling and additional surcharge.

That as per Section 42 (3) it is the duty of the Distribution Licensee to provide open access facility as "**common carrier providing non discriminatory open access.**"

Accordingly the then Hon'ble APERC passed the Regulation 2 of 2005 on 1.7. 2005. As per Clause 15.2 of said regulation, the "Nodal Agency shall not reduce or cancel the capacity allotted without giving a notice of at least 15 days in advance to enable the concerned open access user to file his objections if any in writing" As per Clause 19.4 the open access user shall make reasonable endeavor to ensure that the actual

demand or actual sent out capacity shall not exceed their Contracted Maximum Demand (CMD).

Further, the Hon'ble APERC passed the Regulation 2 of 2006 on 11.08.2006. As per Clause No. 8.2 of said regulation the Licensee has to calculate the demand at exit point and as per Clause 8.4 the Open Access demand is to be deducted from RMD and bill for balance demand as per terms of supply of the DISCOM

It is submitted that the DISCOM was not deducting the open Access Demand from RMD hence, the same fact was brought to the notice of then then hon'ble APERC. Hence, the then Hon'ble APERC vide proceeding No. APERC/Secy/25/2013 dated 4. 5. 2013 in Clause No. 7 given the example to determine the Open Access Demand and in Clause No. 8 directed to take into account open access demand while issuing the bills without any condition. Also directed to arrive the maximum demand consumption of DISCOM after deducting the open access demand in 2880 blocks in the month.

It is pertinent to note your honour that the Respondent No. 4 has filed its counter before this Hon'ble Authority vide letter No. SE/OP SAO/HT/D. No. 15/2019 dated 3.4.2019 along with statement showing the open access consumption of energy (KWH) only but not furnished the open access demand consumption as per proceeding No. APERC/Secy 25/2013 dated 4.5.2013 but mention in the counter that he has raised the revised bill of June, 2018 Billing Month after adjustment of open access demand and mislead to this Hon'ble Authority.

10. On the basis of the said averments by both sides the following issues are framed:-

1. Whether the Respondents have demanded for excess bill amount of Rs 5,74,402/- towards late payment charges in the month of June,2018 including Rs 466/- of interest on ED?
2. Whether the Respondents failed to adjust Appellant's entitled demand of Open Access and claim of Rs 12,16,656/- towards excess demand charges?
3. To what relief?

Heard both sides.

Issue No.1

11. M/s. Sugna Metals Limited holds a HT Service connection bearing HT SC No. VKB 1247 with Contracted Maximum Demand of 30999 KVA. The present Appeal is against the HT CC bill dt.26.06.2018, issued for the month of June-2018. The Appellant alleged that the Respondents have excess claimed an amount of Rs 5,74,402/- towards late payment charges and not adjusted the entitled demand of 3119.62 KVA of Open Access consumption of 3151133 KWH.

Claim of Rs 5,74,402/- towards late payment charges

The Appellant claimed that the Respondents excess billed in the month of June,2018, bill dt.26.06.2018, in terms of late payment charges of Rs 5,74,402/- including Rs 466/- of interest on ED. The Appellant relied on the following :-

May,2018 bill dt.26.05.2018	-	Rs 6,43,84,862/-
Due date for payment	-	9.6.2018
Payment made on 8.6.2018	-	Rs 6,00,00,000/- (before the due date 9.6.2018)
Balance payment of Rs 43,84,862/-	-	11.06.2018

It was held that there was only two days delay in payment of balance amount of Rs 43,84,862/- on 11.06.2018. It happened to occur that 9.6.2018 was second saturday and next day being Sunday which is a bank holiday, consequently its liable to pay late payment surcharge on balance amount of Rs 43,84,862/-. The Clause 4.3.3 of the Regulation Electricity Supply Code 5 of 2004 reiterates the same.

On the other hand the Respondent No.3, SE/OP/Vikarabad, opposed the claim of the Appellant stating that the late payment surcharge of Rs 5,73,936.39 and electricity duty interest of Rs 465.74 in the CC bill for the month of June,2018 pertains to the arrears pending as on 31.03.2018 for the CC bill of April,2018 (due date 10.05.2018) and not towards the May-2018 CC bill as reckoned by the Appellant. The following are the details of the calculation of late payment Surcharge :-

TABLE -1

Due Date	Payment Date		Balance	Days	Rate	Total
Arrears			20668064.85	31	0.0005	320355.01
10.05.2018	11.05.2018		23971330.29	1	0.0005	11985.67
10.05.2018	18.05.2018		20000000.00	8	0.0005	80000.00
10.05.2018	21.05.2018		20000000.00	11	0.0005	110000.00
10.05.2018	22.05.2018					
Total surcharge on arrears and late payment charges against CC Arrears						573936.39
10.05.2018	11.05.2018	ED.Int	708314.70	1	.24	465.74
Total CC Arrears Int & ED int. Levied in June 2018 CC bill						574402.13

On the opening balance as on 31.03.2018 of Rs 2,06,68,064.85, there was a delay of 31 days, the late payment surcharge was accounted to Rs 3,20,355/- in addition to this April,2018 month CC bill was not paid within the due date 10.05.2018. As such there was one day delay over payment of Rs 2,50,00,000/- made on 11.05.2018 and for the second payment of Rs 2,00,00,000/- with 8 days delay, payment was made on 18.05.2018 and the third payment was made for Rs 2,00,00,000/- with 11 days delay on 21.05.2018 and 4th and final payment of Rs 85,99,287/- was made on 22.05.2018. Over all late payment surcharge was levied @ 0.0005ps per Rupee towards late payment charges towards the CC arrears and interest on ED was levied in the month of June,2018 CC bill for a total amount of Rs 5,74,402/-

Initially, the Appellant opposed the payment of the total amount of Rs 5,74,402/- towards late payment surcharge, referring to the payments made against the month of May-2018, later vide rejoinder dt.17.04.2019, referred to the statement of reconciliation as on 31.03.2018, filed by the Respondent No.2 SAO/OP/Vikarabad, in another Appeal No. 67 of 2018 of the same HT Service connection vide Lr.No.SE/OP/VKB/SAO/HT/D.No.16/2019 dt.03.04.2019, wherein an amount of Rs 1,98,38,567/- was shown as under the credit to the Appellant and claimed that they are liable to pay only Rs 2,54,047/- (out of Rs.5,74,402/-) which pertains to late payment charges of the April,2018 bill and are not liable to pay the balance amount of Rs 3,20,355/- which was levied towards arrears of Rs 2,06,68,064.85 ps. The Appellant

has altered his initial claim over not liable to pay the total amount of Rs 5,74,402/- towards late payment surcharges to Rs 2,54,047/- as payable.

There is a contradiction over opening balance until 31.03.2018 one such statement referred by the Appellant, shows (-)1,98,38,567 as stated above, which has no signatures on it . The other statement, month wise opening balance also enclosed by the Appellant along with his appeal dt.07.03.2019 in page No. 55, shows that the opening balance as on 31.03.2018 of Rs 2,06,68,064.91 ps which was signed by the Respondent No. 2 SAO/OP/Vikarabad. A scrutiny of the above statements goes to show that in the statement which shows credit balance as on 31.03.2018 of Rs (-)1,98,38,567/- not taken into account the opening balance as on 30.04.2015, Rs 2,17,17,234, whereas as per the statement enclosed by the Appellant at page No. 55, goes to show that there are certain arrears pending every month which was carried forward until 31.03.2018 to an amount of Rs 2,06,68,064.91 ps. Since in the statement showing credit balance of Rs (-)1,98,38,567/- not taken opening balance into account, the credit amount of Rs (-)1,98,38,567/- is not correct.

The Appellant shown objection on the bills issued on Aug 2016, Sep 2016, Dec 2016 June 2017, Jan 2018 and Feb 2018, over the amount debited without any notice. The Respondents in turn answered the objections of the Appellant stating that there were certain billing errors such as in Sep-2016, the losses taken were less thereby the demand of Rs 1,92,09,829/- was revised to Rs 1,98,18,104/-. An amount of Rs 88,02,895/- was withdrawn in the month of July,2017. An amount of Rs 11,23,606/- was excess billed in the month of Jan 2018, owing to non updation of additional load in the billing system. The amounts pertaining to SLP regarding FSA were raised in the bills under Court Case was debited as per the final orders of the Hon'ble Supreme Court in Sl.No.5542/2016. Further there was an error of debiting Rs 45,00,000/- under wrong head in the month of Jan,2018 where the consumer deposited Rs 45,00,000/- towards (Security Deposit) SD but was credited under CC charges, the same was rectified. Further as per the service wise ledger an amount of Rs 13,82,434/- i.e. Rs 11,23,606/- excess billed in Jan,2018 and its surcharge of Rs 2,58,827/- was withdrawn in the month of Nov,2018 in view of non updation of additional load in the billing system.

As can be understood that the claim of Rs 5,74,402/- towards late payment surcharge was clearly explained vide Table No.1 which is pertaining to the non payment of C.C. Charges for the month of April-18 and arrears thereon within the due

date. Hence it is found that levy of late payment surcharge of Rs 5,74,402/- is in line. Hence decides this issue against the Appellant.

Issue No.2

12. Non Adjustment of Entitled Demand of open Access and claim of Rs. 12,16,652/-Excess towards Demand Charges

The Appellant held that the Respondents not adjusted the entitled proportionate demand of 3119.62 KVA towards Open Access consumption of 3151133 KWH. He has relied on the clause 8.2 read with 8.4 of Regulation 2 of 2006 and clause 5 of ERC proceedings of order on open access metering and demand settlement - FSA billing on minimum energy vide proceedings No. APERC/Secy/25/2013 dt.04.05.2013. It was claimed that the levy of Rs 12,16,652/- towards demand charges is in violation of the above said guidelines of the ERC. On the other hand the Respondents held that initially original bill was issued based on the check meter reading for a demand of 30360 KVA and the revised bill was issued after taking data from the main meter dump duly adjusting the open access demand. The maximum RMD of 30600 KVA is consumed on 11.06.2018 at 13:45 to 14.00 hrs in 15 mins block interval.

In order to understand the dispute the above referred clauses is placed below for perusal

Clause 8.2: “ The Scheduled demand at exit point shall be calculated by dividing the scheduled capacity (kW) at exit point by the power factor for the time block, for which purpose the power factor shall be equal to the recorded kWh divided by kVAh.”

Clause 8.4: “The scheduled demand at Exit point or the actual demand made available to a consumer from each OA Generator at that Exist point in a time block whichever is less shall be deducted from the recorded demand (in the inter-se-order of such Generator as confirmed by the SLDC while finalising the day ahead schedule, in case the consumer is availing energy from more than one Generator). The balance demand for each time block shall be deemed to have been consumed from the DISCOM and shall be paid as per the terms of the supply agreement with the DISCOM.”

The above given clauses does not go in line with the analogy taken by the Appellant over proportioning the consumption recorded towards Open Access 3151133 KVAH units into 3119.62 KVA Open Access Demand. In fact the clause 8.2 refers to the

calculation of arriving the scheduled demand i.e. the scheduled capacity is to be divided by the power factor for the time block, where the power factor shall be equal to the recorded KWH divided by the KVAh. How the 3119.62 KVA of Open Access demand proportionate to 3151133 KVAh units was derived by the Appellant was not explained. There is no mentioning of proportioning the total consumption of KVAh units into Open Access Demand as claimed by the Appellant. Whereas the Clause 8.4 reiterates the procedure over arriving demand in KVA for each time block to have been consumed from the DISCOM, which is in reference to each time block and not the open access energy consumption i.e. 3151133 KVAh as claimed by the Appellant. As per the meter dump data the maximum RMD of 30600 KVA was recorded in the 15 minutes block interval at 13:45 to 14:00 hrs on 11.06.2018.

The analogy to be taken for arriving the demand consumed from DISCOM deducting open access recorded demand from total recorded demand was clarified through an example by the Hon'ble Commission under Clause 7 of proceedings No. APERC/Secy/25/2013 dt.04.05.2013 which is reproduced hereunder:- To get demand consumed from DISCOM shown in column (8), deduct the OA Recorded Demand (shown in Column 7) from total Recorded Demand (RD) (shown in column 5). i. e., Demand consumed from DISCOM = (Total Recorded Demand - OA Recorded Demand).

Sl. No	DISCOM Contracted Demand	OA Contracted Demand	Total Demand from all the sources	Total Recorded units in 15 minutes	Total Recorded Demand (RD)	OA Units in 15 minutes	OA Recorded Demand (kVA)	DISCOM Recorded Demand (kVA) (Col5 - Col7)
1.	600	400	1000	200	800	98	392	408
2.	600	400	1000	200	800	88	352	448
3.	600	400	1000	197.5	790	98	392	398
4.	600	400	1000	197.5	790	98	392	398
5.	600	400	1000	202.5	810	78	312	498
6.	600	400	1000	195	780	75	300	480
7.	600	400	1000	194.5	778	69	276	502
8.	600	400	1000	195	780	93	372	408
9.	600	400	1000	205	820	84	336	484

Of all the nine demands of column (8) the Maximum Demand is 502 KVA mentioned in row (7). The same logic can be extended for 2880 time blocks (15 minutes) in a month.

The AP Transco/ DISCOMs (Energy Billing Centre) account the Demand component from open access while issuing the bills. To arrive at the Recorded Maximum Demand (RMD) of DISCOM, the licensee shall follow the method shown in the above example.

The above example makes clear how to arrive at the calculation in terms of demand consumed from the Discom, the Maximum Demand arrived in 2880 time blocks after deducting scheduled Open Access Demand from the Total Recorded Demand in terms of 2880 time blocks, shall be the MD recorded for supply drawn from the DISCOM. Here it is to be understood that the Open Access demand was not derived from Open Access consumption as claimed by the Appellant. As such the calculation of the Appellant over apportioning the Open Access consumption of 3151133 units into 3119.62 KVA is not in line with the above procedure. As such the request of the Appellant is not tenable. Hence decides this issue against the Appellant.

Issue No.3

13. In the result the Appeal is dismissed.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this, the 17th day of June, 2019.

Sd/-

Vidyut Ombudsman

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Copy to :

5. The Chairperson, CGRF-GHA, TSSPDCL, GTS Colony, Vengal Rao Nagar,
Hyderabad.

6. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.