



## 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**

Friday, the Thirtieth day of June 2017

Appeal No. 09 of 2017

Preferred against Order Dt.09.01.2017 of CGRF In

CG.No: 360/2016-17 of Mahaboobnagar Circle

Between

M/s Indus Towers Limited, represented by Sri. Nagaraju, Sy.No.133,4-51,8th Floor,  
SLN Terminus, Besides Botanical Gardens, Gachibowli, Hyderabad- 500 032  
Cell : 9848006100.

... Appellant

**AND**

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

... Respondents

The above appeal filed on 08.03.2017 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 08.06.2017 at Hyderabad in the presence of Sri. K. Ashok Kumar Reddy - On behalf of the Appellant Company and Sri. Ch. Vidyasagar- DE/OP/Nagarkurnool, Sri. C.Bichanna - AAO/ERO/Nagarkurnool, Sri. C. Chakravarthy - ADE/OP/Nagarkurnool and Sri. M. Sreeramulu - AAE/OP/Bijinepally for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

### AWARD

The Appellant company has SC No. 111701304. When the Respondents served a demand notice for Rs 5,17,984/- stated to be towards back billing on the ground of R phase missing and the MRT report revealing the meter recording less energy consumption for the period from 19.6.2013 to 5.5.2015. The Appellant claimed that the Respondents have not furnished the MRT test result even after a representation to the

2nd Respondent/ADE/O/Nagarkurnool and 4th Respondent/DE/O/Nagar Kurnool. However, the Appellant claimed that it had paid 50% of the initial assessment under protest and also to ensure that the service connection is not disconnected.

2. The Appellant claimed that the assessment should be limited to 12 months prior to the date of inspection as per Clause 7.5.1.4.4 of GTCS and neither initial notice nor final assessment orders were communicated to the Appellant. The Appellant filed a complaint to the said effect before the CGRF seeking revision of assessment period to 12 months.

3. Before the CGRF, the 1st Respondent/AAE/O/Bijinepally through letter dt.13.10.2016 stated that the service in question was inspected by the DPE wing on 5.12.2014 and a proposal was made for back billing in view of R phase missing for the period from 19.6.2013 to 5.5.2015 for an amount of Rs 5,17,984/-. The DE/O/Nagarkurnool/R4 issued final assessment orders. The Appellant paid an amount of Rs 1,15,152/-.

4. During the hearing on behalf of the Appellant, a request was made for furnishing a copy of MRT report for shortfall amount which was received on 4.1.2017 and sought one week time to study the report and to pay the final assessment amount. He stated that the company has paid an amount of Rs 64,744/- on 17.12.2016 which is not updated in the account books.

5. The 2nd Respondent stated that MRI and MRT dumps reports were delivered to the Appellant on 4.1.2017. The 3rd Respondent/AAO/ERO/Nagar Kurnool stated about the amount of Rs 64,744/- to be verified and credited to the consumer account.

6. After hearing both sides and on consideration of the material on record, also noting the view of the member, consumer affairs to the effect that the Respondents have failed to carry out regular inspection of the service, further back billing for several years is not correct and Section 56(2) of the Electricity Act,2003 is applicable to the present case, no back billing should be done and if there is any amount due, it should be recovered from the concerned officials and not from the consumer, the majority members of the CGRF observed that the meter was recording less consumption in one phase and the test results of the MRT lab revealed that the meter is not recording the voltages in R phase and based on MRI data analysis, a short billing notice was issued and the consumer paid 50% of the assessed amount, held that the request of the Appellant to restrict the assessment period to 12 months in terms of Clause 7.5.1.4.4 of the amended GTCS cannot be accepted, because the entire period

of missing of R phase is available and the Appellant is liable to pay the demanded amount, however in 12 monthly instalments as per Clause 4.6.1 of Regulation 5 of 2004 with interest at 18% per annum without additional charges for delayed payment, through the impugned orders.

7. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal specifically requesting to limit the back billing period to 12 months stating that pursuant to the demand notice, the Appellant paid 65% of the demanded amount Rs 3,23,718/- while raising three questions and they are:

- a. What are the voltages between two phases and between phase and neutral supplied to the consumer as per the GTCS?
- b. What is the voltage and resistance between earth and neutral?
- c. Why the meter gets defective and who has to check whether the meter is working normally (with detailed clarification)?

8. In the Appeal, the 3rd Respondent AAO/ERO/Nagarkurnool through letter dt.8.4.2017 stated that the Appellant finally has cleared the total assessed amount of Rs 5,17,984/-.

9. The AAE/Electrical/O/Bijinepally submitted a letter dt.31.5.2017 stating that the Appellant claimed that the back billing should be limited to 12 months only and that he observed the monthly energy meter readings of the service connection and found that voltages are not being recorded properly on the energy meter and he registered a complaint at DPE office register on 11.11.2013. After his complaint, the AE/DPE/Mahaboobnagar has inspected the service on 5.12.2014 (after one year), took energy meter dump, found the meter defective and recording less consumption. He stated further the ADE/O/Nagarkurnool/R2 issued a provisional assessment notice to the Appellant for Rs 5,17,948/- and the DE/O/Nagarkurnool finalised the short billing case. He stated that as per the instructions of the AE/DPE/MBNR, the AE/M&P/Nagarkurnool has replaced the old meter with a new meter on 17.12.2016.

10. In view of the nature of allegations and also contentions, the mediation efforts failed and therefore, the matter is being disposed of on merits.

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

1. a. What are the voltages between two phases and voltages between phase and neutral supplied to the consumer as per the GTCS?
  - b. What is the voltage and resistance between earth to neutral?
  - c. Why the meter gets defective and who has to check whether the meter is working normally (with detailed clarification)?
2. Whether the Appellant is entitled to be charged with back billing limited to 12 months prior to the date of inspection as per Clause 7.5.1.4.4 of GTCS?
3. Whether there is negligence on the part of the officials of the DISCOM in taking immediate steps in view of discovery of missing voltages in R phase on 11.11.2013?
4. Whether the impugned orders are liable to be set aside?

## **Heard**

### **Issue No.1**

12. 1. The AE/OP/Bijinepally/R1 answered the questions in the following manner which are found to be in order:

- a. The voltage between 2 phases is 440 volts and phase to neutral is 240 volts as per standards.
- b. The voltage between earth to neutral is 12 volts, current is 10 Amps and resistance is 10 Ohms as per Standards.
- c. The issue of defective meter arise in different conditions, like consumer side load variations and voltage fluctuation etc.,

### **Issues 2 to 4**

13. The AE/Operation vide lr no. 613 dt: 31-05-2017, stated that he has reported on 11.11.2013 that the voltages were not recording properly in the energy meter of SC No. 1117-01304 of M/s Indus Towers at Palem and this irregularity was recorded in the register of DPE wing for necessary action.

14. Subsequently, the AE/DPE/Mahaboobnagar inspected the service connection almost after one year i.e.5.12.2014 and found that the meter is defective, recording less consumption due to 'R' phase voltage missing. The data of the meter was logged in the MRI. The defective meter was inspected by M&P wing on 5.5.2015. The observations of the M&P wing made through MRI data was that the 'R' phase voltage was dropping intermittently since 24.11.2012. The DPE wing proposed short billing,

taking the average consumption per day of previously healthy 3 consecutive months of 3/13,4/13 and 5/13 as follows:-

$$\frac{3984+4810+3375}{95 \text{ days}} = 128.736 \text{ units or say } 129 \text{ Units per day}$$

15. Based on the above, the ADE/OP/Nagarkurnool issued the provisional assessments notice demanding shortfall amount of Rs 5,17,948/-. Subsequently, the DE/OP/Nagarkurnool designated officer for Appeal against Provisional notice, confirmed the revenue loss as given in Provisional Assessment notice i.e. Rs 5,17,948/-.

16. The Appellant paid the total amount in 4 instalments, but opposed the back billing assessment period which was from 19.6.2013 to 5.5.2015 and requested to limit the period to 1 year only while quoting the GTCS amended Clause 7.5.1.4.4.

17. The Appellant further stated that they were denied opportunity to be heard during the initial and also final assessment orders. During the hearing in the CGRF, ADE has filed MRT dump and on verification, it disclosed that before the assessment period, a lot of fluctuations in supply i.e., High Voltage upto 291.4 Volts and low voltage of 138.4 was found. Further, the Appellant pointed towards Schedule II (2.1) of TSERC/05/2016 (Standards of performance) that in case of low voltage + 6% and -6% and in case of High voltage +6% and -9% the problem will be resolved within 10 days. Hence, due to this fluctuation, the Appellant alleged that the meter got faulty and questioned the following:

- 1.What are the Voltages between 2 phases and Voltages between Phase and Neutral supplied to the consumer as per the GTCS Clause?
- 2.What is the Voltage and Resistance between Earth and Neutral?
3. Why the meter gets defective and who has to check whether the meter is working normally every month ( With detailed clarification)

18. Apart from the above, there was an internal audit upon the consumption of the Appellant service connections, which revealed that the condition of the meter fixed was sluggish during June 2013 (3340 units) and July 2013 (1000 Units) when compared to earlier (period) consumptions. The meter was struck in August,2013 when the reading was 88425.5 and the billing for August,2013 was done for 52 units. The billing for the subsequent period (struck up) was done by adopting a monthly average of 3061 units for which details are not available.

The condition of meter during March,2013 to May,2013 was normal. The monthly average consumption from March,2013 to May,2013 worked out to 4611 units. By adopting this monthly average of 4611 units, the short billing amount from June,2013 to December,2013 worked out to Rs 1,43,822 as follows:

Month	Average consumption to be adopted	Units billed	Short billed Units	Short billing Rs.
June,2013	4611	3340	1271	11604.23
July,2013	4611	1000	3611	32968.23
Aug,2013	4611	52	4559	41705.30
Sep,2013	4611	3061	1550	14151.00
Oct,2013	4611	3061	1550	14151.00
Nov,2013	4611	3061	1550	14151.00
Dec,2013	4611	3061	1550	14151.00

Total : 15461	1,42,883.96
ED 16461 X Rs 0.06	938.46
Total Short billing	Rs 1,43,822.42
Rounded off to	Rs 1,43,822/-

19. This shortfall consumption raised during internal audit for Rs 1,43,822/- was paid by the Appellant on 9.5.2014 with a request to deduct this amount from the back billing amount of Rs 5,17,948/- raised for the period which includes the audit shortfall period from 6/2013 to 12/2013. The request was considered and the amount paid by the Appellant Rs 1,43,872/- was deducted from Rs 5,17,498/-. It is also seen that the Appellant also paid the balance amount of Rs 3,74,126/-.

20. The inspecting officer, AE/DPE/MBNR analysed the MRI data and observed that "the MRI data shows that 'y' phase current and Y phase Voltage were recorded as zero value since 24.12.2012, which shows that there has been no supply in the y phase, observing that there is no HG fuse wire on single phase DTR connected on Y Phase. Hence, there were only two phases supply since 24.12.2012 and this cannot be taken as an irregularity in terms of billing, since the utilisation on this phase is nil load on record.

A perusal of MRI data shows that “R’ phase voltage drop recorded at value 155.5 volts was on 24.12.2012. Since 13.6.2013, the ‘R” phase voltage drop was continuous, intermittently on few occasions the voltage attained desirable voltage of 230 Volts. But currents in the corresponding phase i.e “R” phase are healthy. This means that there is no recording in the meter to an extent of one phase and whereas, the Appellant’s unit is availing healthy supply in that phase. Hence it is established that there is one phase drop since 13.6.2013 in the meter.

21. The DISCOM has calculated the revenue loss in the following manner: Based on the MRI Data, the period of irregularity i.e., one phase Voltage missing was taken from 19.06.2013 to 05.05.2015. The calculation of units lost was based on average no. of units evaluated by taking average of three months previous healthy consecutive billing months of 3/2013,4/2013 & 5/2013

$$\frac{3984+4810+3375}{95} = 128.736 \text{ units per day or Say } 129 \text{ units per day.}$$

95 Days

Recorded Units	= 31,988 units
Assessed Units	= 88,365 units
Lost Units	= 88,365-31,988
	= 56,377 units.
Amount	= Rs. 5,14,565
Electricity Duty	= Rs. 3,385

The Total Amount for short billing resorted by the Respondents = Rs. 5,17,948.

22. The Clause 7.5.1.4.4 of GTCS, is substituted by amendment, vide Proceeding No.APERC/Secy/96/2014 dated 31-05-2014, which is reproduced below

“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.”

23. The present Assessment is based on the above given Clause. The period of defective meter i.e., one phase Voltage missing is established from 19.06.2013 based on the MRI data. Hence, the revenue loss assessed is in order. Thus the claim of the Appellant to limit the back billing to 12 months, is untenable in view of the amended Clause 7.5.1.4.4 of GTCS which permits back billing if the date of the defect is clearly known.

24. It is observed that there is huge laxity on the part of the concerned Officers responsible in not replacing the defective meter for almost 3 ½ Years in spite of necessary directions given during Internal Audit para remarks by the AAO/ERO/Nagarkurnool and inspections of DPE Wing to replace the meter. Eventually, the meter was replaced on 17.12.2016 and it is surprising to note that the billing for this service connection continued with average units without replacement of the defective meter, resulting in revenue loss to the DISCOM.

25. Regarding the three questions raised by the Appellant:

- a. What is the Voltages between 2 phases and Voltages between Phase and Neutral supplied to the consumer as per the GTCS?

**Clause 3** - system of supply - of the GTCS mandates the voltage level and declared voltage under **Sub Clause 3.12** which is reproduced here under:

Voltage level	Declared Voltage
Low Tension (LT)	Single Phase: 240 volts between phase and neutral; and Three Phase: 415 volts between phases of alternating current - 50 cycles
High Tension (HT)	Alternating current 3-phase, 50 cycles ,11 kV between phases for loads upto 1500 kVA. For loads exceeding 1500 kVA, the Company reserves the right to supply at higher voltage of 33 kV, 132 kV or 220 kV
Extra High Tension (EHT)	Three Phase: 132 kV/ 220 kV Two Phase: 132 kV/ 220 kV for existing Railway Traction

- b. What is the Voltage and Resistance between Earth and Neutral?

The ideal condition of voltage and resistance between Earth to Neutral is zero, there will be no potential difference but in general practice, the values are nearer to zero.

- c. i) Why the meter gets defective and ii) who has to check whether the meter is working normally every month?

i) We cannot conclude that meter got defective for any one particular reason. Here on record, the information furnished is only that the meter got defective by not recording one phase voltage and it was replaced with a healthy meter on 17.12.2016. The reasons for such defectiveness are not brought on record, except

the remarks of AE/Operation suspecting load variation at consumer end and voltage fluctuation.

ii) regarding the periodical meter testing under various categories, the officers designated is described in the Sub Clause 2.1 of Clause 2 under Designated Officers notification dt.27.2.2006 of the GTCS.

Periodical Meter Testing is covered by Clause 7.3.1 of GTCS which says that the DISCOM shall arrange periodical/inspection/testing and calibration of energy meters. Further under this Clause, the LT meters shall be tested every five years.

The officers designated under Clause 2.1 of the Designated Officers notification for periodical meter testing are as follows:

SL.No	Category	Designated Officer
1.	All LT Categories	AE(Meters)
2.	HT Categories including and upto 1000 KVA of total contracted demand including demand with DISCOMs and other sources	ADE(Meters)
3.	HT Categories above 1000 KVA of total contracted demand including demand with DISCOMs and other sources	DE(M&P)

26. It is imperative that the responsibility for taking steps with huge delay has to be fixed in this case. The irregularity started on 24.12.2012 as per MRI data but it was identified on 11.11.2013 by AE/OP/Bijinepally. The inspection was done on 5.12.2014 and suddenly, a demand notice dt. 01.06.2015 was issued for Rs 5,17,948/- with replacement of meter on 17.12.2016. The officials of the DISCOM are responsible for perpetuation of the missing of voltage in R phase for about three years, for which the Appellant has no role. The Appellant has to be compensated for being treated with callousness and for being burdened with payment of a lump sum for no fault. Therefore, it is found reasonable to direct that out of the total amount of Rs 5,17,948/-, 20% of the assessed amount shall be refunded to the Appellant by way of adjustment in the future CC bills. It is also made clear that there should be an enquiry by the DISCOM to fix responsibility on the officials who are found to be negligent in discharge of duties and recover this 20% of the assessed amount from them. The issues are answered accordingly.

27. The Appeal is disposed of directing as follows:-

- a. The claim of the Appellant that the back billing should be limited to 12 months only as per Clause 7.5.1.4.4 of GTCS, when the defective period is established through MRI data is not tenable.
- b. There is negligence of the concerned officials of the DISCOM in taking immediate corrective steps, in view of discovery of the missing voltages in R phase from 11.11.2013.
- c. 20% of the assessed amount of Rs 5,17,948/- shall be refunded to the Appellant by way of adjustment in the future CC bills.
- d. The DISCOM shall initiate an enquiry to find the officials who are negligent in discharge of their duties during the relevant period and recover the 20% of the assessed amount paid to the Appellant, from them.
- e. The impugned orders are confirmed to the extent indicated.

28. 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 30th day of June, 2017.

Sd/-

**VIDYUT OMBUDSMAN**

1. M/s Indus Towers Limited, represented by Sri. Nagaraju, Sy.No.133,4-51, 8th Floor, SLN Terminus, Besides Botanical Gardens, Gachibowli, Hyderabad- 500 032. Cell : 9848006100
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6. The SE/OP/MBNR Circle/TSSPDCL/Mahaboobnagar.

**Copy to:**

7. The CGRF - 1, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad.
8. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad.