

BEFORE THE VIDYUT OMBUDSMAN

::Present::

C.Ramakrishna

Date: 28-03-2014

Appeal No.116 of 2013

Between

M/s. Kakathiya Picture Palace,
H.No.11-27-14,
Vasavi Colony,
Warangal-Dist-506 002.

... Appellants

And

1. Assistant Divisional Engineer, Operation, Town, Warangal.
2. Divisional Engineer, Operation, Town, Warangal.
3. Senior Accounts Officer, Circle Office, Warangal.
4. Superintending Engineer, Operation, Warangal.
5. Chief General Manager, Commercial, Corporate Office, Warangal.

... Respondents

The above appeal filed on 03-12-2013 has come up for final hearing before the Vidyut Ombudsman on 22-03-2014 at Warangal. The appellant as well as the respondents were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the grievance of the appellants that the departmental officers failed to dismantle the transformer consequent to their requesting for disconnection of the HT service for their cinema hall. The failure on the part of the respondent officers has led to their getting a huge bill on account of FSA charges, monthly minimum charges & delayed payment surcharge.

3. On 03-12-2013, the appellants filed this appeal stating that they have an HT connection with a CMD of 150 kV; that due to financial and family problems they closed the theater in October, 2012; that they requested the departmental officers to disconnect the service and accordingly the service was disconnected on 26-12-2012 without dismantling the transformer; that suddenly they received a bill for a huge amount of Rs.5,03,266/-; that the respondent officers have not acted in time on their request and have delayed the dismantling of the transformer; and that they want waiver of FSA charges and monthly minimum charges for 4 months amounting to Rs.2,34,757/-. They enclosed a copy of the CGRF's order and the written submissions made by the respondent SAO and the SE to the CGRF. _

4. A notice was issued for hearing the case directing the respondents to submit their written submissions, if any. The respondent SAO and SE have submitted their written submissions during the hearing on 04-01-2014 stating that the appellants have an HT service connection bearing No.26 and were served with a bill for consumption relating to November, 2012; that

the bill was not paid by the appellants up to the disconnection date i.e., 25-12-2012; that the D list was issued from the HT section against this service along with other services; that it was intimated by the ADE, Mulugu Road that the service was disconnected on 26-12-2012; that thereafter no payment was made by the consumer and hence reconnection order was not given for the service; that the respondent ADE has requested to terminate the agreement in respect of the above service vide his letter dated 07-08-2013; that the service was reviewed as per clause 5.9.4.3 of the GTCS and the consumer was requested through letter dated 27-09-2013 to pay an amount of Rs.2,77,835/-; that the consumer has to pay FSA amounts in one go as the agreement was to be terminated; and that the CGRF, NPDCL, Warangal has also not acceded to the complaint of the appellants. They enclosed a detailed calculation sheet for the amount reflected by them.

5. The appellant is a Cinema hall having a CMD of 150 kV. It appears that there were some financial and family problems which led to the closure of the theatre in the month of October, 2012. The appellants contend that they had requested the respondent officers to disconnect the service and dismantle the transformer on 08-12-2012. But the respondent officers say that they are not in receipt of such request at any time and hence they acted as per the procedures, rules and regulations in vogue. The respondents claim that the appellants did in fact approach them on 03-12-2012; but that was for a different cause -- i.e., for de-rationing of the CMD from 150 kV to 60 kV. The respondents claim

that whether or not an acknowledgment is given for a paper received in their office, there is no possibility of losing that paper from their records as they follow clearly laid down procedures for processing of papers received in the office. The appellants claim and produced a photocopy of a letter dated 08-12-2012, albeit one which has no traces of having been delivered in any of the offices of the respondent officers, to claim that they did in fact deliver a letter for disconnection of service and dismantling the transformer; but that it is the respondent officers who have not acted in time on their request for the disconnection. It is this inaction on the part of the respondent officers, the appellants allege, that has resulted in the giving rise to their liability for huge monthly minimum charges on account of the service being still in force. A perusal of the record does not support the contention of the appellants. The respondent officers are able to establish clearly, that any paper that they receive in their offices is handled and processed properly, whether or not it is acknowledged to the senders. They were able to do so by producing a copy of the letter written by the appellants on 03-12-2012 seeking derationing of the CMD from 150 kV to 60 kV. This letter dated 03-2-2012 also was not acknowledged by the respondent officers. In fact, the appellants are not able to produce a copy of that letter. This proves the point of the respondent officers that they would have surely acted on the disconnection request, had they received such request. Thus the contention of the appellants that the respondent officers have not acted in time, on their request for disconnection and dismantling of the service is not proved.

6. The next contention of the appellants is that they are subjected to FSA charges and monthly minimum charges for the period when the theatre is not in operation. The respondents expressed their inability to do anything in this regard as they are following the letter and spirit of the rules and regulations in raising the relevant demand.

7. It has come out during the hearing held on 04-01-2014 and 22-03-2014 that the appellants did not know the distinction between disconnection and termination of the service. A perusal of the record produced at the time of hearing revealed that the respondent officers have made their best efforts to act in time on the request of the appellant. However, the officers erred in the calculation of the monthly minimum charges. The R&C regime came into existence at around the same time i.e., September, 2012. The CGRF too in its order has noted this aspect but disposed of the complaint of the appellant herein without giving a clear finding. All the directions of the Hon'ble Commission issued from time to time during the period when R&C measures were brought into existence, including the very first one, have been categorical in stating that the billing demand shall be maximum recorded demand during the month and clause 213.6(6) of the Tariff Order shall not be applicable during the period when R&C measures are in force. It is that clause of the Tariff Order which authorises levy of monthly minimum demand charges in respect of HT services. This means that only the recorded demand shall be taken as the

basis for billing during the month in question. Their next contention that FSA charges should be waived is not found supported by any material.

8. Having perused the material available on record, the oral and written submissions of the appellants and the respondents during the hearing, it is found that the appellants' contention in so far as their claim of having delivered a letter for disconnection of service is found to be not true. However, their liability to monthly minimum charges is subject to the specific exemption granted by the Hon'ble Commission in its orders relating to R&C measures from time to time. The appellants are liable to pay the FSA charges as applicable from time to time.

9. Therefore, it is hereby ordered that:

- a. The order issued by the CGRF, APNPDCL, Warangal is set aside, as it has not given a clear finding on the monthly minimum charges;
- b. If it is found that no demand was recorded at all during the months in question, then the bills for these months shall be duly revised by not levying any monthly minimum demand charges; and
- c. All other charges including FSA which are found to be otherwise due shall be payable by the appellants.

10. The appellants shall communicate their acceptance of this award within 15 days from the date of receipt of this award to

the respondent officers, under intimation to this authority. The respondent officers shall act on the acceptance of the appellants within 15 days from thereafter and revise the outstanding bills keeping in view the observations made above and submit a compliance report to this authority within 10 days from the date of their affecting the revision of the bills.

11. The appeal is disposed of accordingly. In the circumstances, there is no order as to costs / compensation.

This order is corrected and signed on this 28th day of March, 2014.

VIDYUT OMBUDSMAN

To

- 1.Smt.T. Vijaya Laxmi, M/s. Kakathitya Picture Palace,
H.No.11-27-14, Vasavi Colony, Warangal-Dist-506002.
2. Assistant Divisional Engineer, Operation, Town, Warangal.
3. Divisional Engineer, Operation, Town, Warangal.
4. Senior Accounts Officer, Circle Office, Warangal.
5. Superintending Engineer, Operation, Warangal.
6. Chief General Manager, Commercial, Corporate Office,
Warangal.

Copy to:

1. The Chairperson, CGRF, APNPDCL, 'Vidyut Bhavan', Nakkalagutta,
Hanamkonda, Warangal - 506 001.
2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red
Hills, Hyderabad-04.