



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh & Telangana**

:: Present ::

C. Ramakrishna

Date: 02-09-2014

Appeal No. 149 of 2013

Between

M/s. Sofia Industries, Kothapeta Village, Gooty, Anantapur Dt.

... Appellant

And

1. The Addl. Asst. Engineer/Operation/APSPDCL/Gooty, Anantapur Dt.
2. The ADE/Operation/APSPDCL/Gooty, Anantapur.
3. The DE/Operation/APSPDCL/Gooty, Anantapur Dt.
4. The SAO/APSPDCL/Anantapur
5. The SE/Operation/APSPDCL/Anantapur

... Respondents

The above appeal filed on 10-03-2014 has come up for final hearing before the Vidyut Ombudsman on 14-08-2014 at Anantapur. The appellants, as well as respondents 1 to 4 above were present. Having considered the appeal, the written and oral submissions made by the appellants and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the grievance of the appellants that they were unnecessarily subjected to R&C penalties.

3. The appellants stated in their appeal that they were released supply on 15-03-2012 under LT III B category with a contracted load of 149 HP; that the service was converted to HT w.e.f 01-04-2013 in accordance with the tariff order for the year 2013-14 with a contracted demand of 123 kVA; that during the period when R&C measures were in force i.e., from September, 2012 to July, 2013, they opted for taking 3 days off and 4 days supply per week; that during the R&C period, they were not expected to consume more than 10% of their contracted demand during power off days; that they have never consumed more than 10% of energy during any month as against the 60% of energy to which they are entitled; that their business unit has one 120 HP motor, two 2 HP motors, two 3 HP motors & two 5 HP motors; that to repair the teething problems the motors were giving, they had to run them for brief periods of 15 to 20 minutes during a few days during the power off days; that as their consumption has never gone beyond 10% of the permitted quantum of energy in any month, R&C penalties that were levied on them be waived; that the frequent interruptions in power supply resulted in the overloading of the motors and huge losses for them as they had to remove the cement clinker from the grinding mill before re-starting the mill; that the respondent ADE also made them run the motors for brief spells during R&C period to verify the functioning of the meter which also resulted in shooting up of the recorded maximum demand beyond 10% of the contracted demand; that while the incidents of their consumption shooting beyond the prescribed 10% of

contracted demand during power off period are few and far between, the incidents of power interruptions are many more, because of which they had suffered irreparable loss; and that therefore, the levy of R&C penalties on them is totally unjust and needs to be waived off. The appellants enclosed documents detailing the R&C penalties levied on them to an extent of Rs. 3,92,654/-, the report of the ADE, M&P, Gooty to the DE, M&P, Anantapur showing the 'power on' days and 'power off' on which appellants exceeded 10% of contracted demand and the details of LR's taken on the Kothapeta Water Works feeder, Puligutta SS on which the appellants are connected.

4. Even while the posting for hearing the matter was about to be given, the respondent officers had reportedly pressured the appellants for paying the R&C penalty balances. On the appellants' request for stay of collection, interim orders were passed on 19-03-2014 directing the respondents not to press the collection of R&C balances.

5. Notices were issued for hearing the matter on 13-06-2014. At the time of the hearing, it was claimed by the appellants that even if they switch on one motor, they would be violating the R&C measures because switching on the main and required motor of 120 HP would take their PDL beyond the permissible 60% and that theirs is a very peculiar case thus and needs to be exempted from R&C penalties. To get a clear picture of the ground reality, the respondent officers were directed to inspect the unit and report back as to the exact number and nature of motors (i.e., the load) connected in the business premises of the appellants.

6. The respondent ADE submitted his report dated 23-06-2014 regarding

the connected load particulars of the appellant. The report revealed that the appellants have one 120 HP motor, two 3 HP motors, three 5 HP motors and two 0.5 HP motors in their premises apart from lighting load approximating to about 5.9 kW. The total connected load amounts to 112 kW or 150 HP or 140 kVA. It is thus apparent that the connected load is more than the contracted load of 123 kVA. Be that as it may, coming back to the veracity of the claim made by the appellants that switching on even one motor to make use of the power will make them liable to R&C penalties, it is found to be correct. If they switch on the 120 HP motor, it would take their demand to 80% of the PDL and this puts them in a piquant situation of violating the R&C norms which prescribe a 60% demand limit option for them. Thus one of the prescribed options is not available to the appellants. So the only option that the appellants could have been put to is the 18 days continuous supply and 12 days power holiday in a month a.k.a 4/3 option i.e., 4 days supply in a week and 3 days power holiday in a week. Realizing this, the respondent SE communicated as back as November, 2012 about the eligibility of the appellants to the 4/3 option.

7. The respondent SE filed his written submission stating that all LT III B services, including the appellants, were placed under 60% Option non-continuous supply and accordingly bills were issued for the period September, 2012 to March, 2013; that the consumer was authorized for the 4 days supply and 3 days power off facility in November, 2012; that the service of the appellants was converted to HT w.e.f 01-04-2013; that the consumer will be liable for penalties under the 60% Option and the 4/3 days Option; and that as observed from the MRI dump, the appellants have not followed any of the two options. Copies of the DISCOM's letter number

CGM(F)/GM(R)/SAO(R)/AO(R)/JAO-1/D.No. 66/13 dtd: 28-02-2013 on how to calculate and collect R&C charges was enclosed by the respondent SE.

8. During the hearing on 14-08-2014, the respondents submitted that after implementing the 50% waiver of R&C penalties ordered by the Hon'ble APERC, the appellants have to still pay an amount of Rs. 1,31,679/-.

9. Apart from the contents of the appeal, the respondents did not dispute the veracity of the enclosures made by the appellant to the appeal. The CGRF held that supply was interrupted to the appellant's service during R&C period and that line clears also were taken on the feeder to which the appellant's supply is connected. The CGRF directed the respondents to revise the R&C bills in accordance with the guidelines issued by their head office and submit a compliance report by 15-01-2014. Sadly, the respondents have not implemented the CGRF's orders and the appellants were forced to pay up the R&C penalties under threat of disconnection.

10. A perusal of the submissions made by both the sides throws up only one issue for resolution. That is, whether or not the appellants are liable for R&C penalties, and if so, to what extent.

11. The Hon'ble Commission came out with the R&C regime with a view to protect the electricity grid from failure and to maintain discipline among various consumers. Keeping, among other things, the peculiar situation like the present appellants' of being liable for R&C penalties in spite of exercising an option that is given to them, the Hon'ble Commission had reduced the R&C penalties as a whole to all the consumers by a flat 50%. Therefore,

thinking that non-availability of an option, would entitle the appellants to exemption from R&C regime is not correct. Though there is some disadvantage, there is still one other option available to the appellants and they have failed, admittedly, to honour their consumption pattern even according to that option. Therefore, the appellants are liable for R&C penalties.

12. The orders of the Hon'ble APERC in so far as they relate to permitting 100% contracted demand throughout the month for those of the consumers who are located on feeders which are subjected to load relief were issued on 22-01-2013. So, from September, 2012 to December, 2012 (billing done in January, 2013) this facility is not applicable to any consumer including the present appellants. Going by the observations made supra, the only option that could have been exercised by the appellants was the 4/3 option. As seen from the record made available, it is clear that the appellants have exceeded 10% of the contracted demand during 'power off' days only on three occasions and during 'power on' days on two occasions before 21-01-2013. Therefore, the appellants are liable for R&C penalties only during those occasions. In contrast to this violation on six occasions, the respondents have taken load relief (from September, 2012 to 21, January 2013) on the feeder of the appellants, on 15 occasions, as certified by the Asst. Engineer, Gooty. When the R&C measures are in force and the consumers are expected to follow the regime laid down by the Hon'ble Commission, the same regime also enjoins on the DISCOMs to keep supplying during the supply hours without there being any interruptions. It is keeping difficulties such as this in view that the Hon'ble Commission had waived 50% of the R&C penalties. An extract of the relevant portion of the Commission's order dated 08-08-2013 reads:

22. Some of the representations before APERC are summarised which are as under:

- a. There is no effective and immediate communication on the orders of R&C measures to the consumers.
- b. There are errors in drafting formulae resulting in anomalies. Therefore anomalies have to be removed.
- c. Exemption has to be given for industries which have critical nature of operations.
- d. There are wrong billings and discrepancies in billings.
- e. Meter reading problems both with reference to time and dates.
- f. The power allowed and the CMD allowed is not sufficient for even minimum requirement of certain industries.
- g. ...

(Emphasis supplied)

13. From a reading of clause f in para 22 of the R&C order extracted above, it becomes clear that the Hon'ble Commission had kept cases like the present appellant's in view while waiving R&C penalties by 50% across the board for all consumers. Therefore, there is no other special dispensation that can be given to the appellant herein beyond what has already been given by the Hon'ble Commission.

14. Therefore, it is hereby ordered that:

- the R&C penalties of the appellants for the period September, 2012 to

July, 2013 shall be revised duly applying the orders of the Hon'ble APERC dated 22-01-2013 to the effect that consumers located on feeders that are subjected to load relief shall be eligible for availing 100% contracted demand;

- from out of the penalties so worked out, the DISCOM shall waive 50% of the penalty in accordance with the Hon'ble Commission's Proceedings No. APERC/Secy/154/2013 dated 08-08-2013; and
- the revision of R&C penalties shall be done by the respondents within 10 days from the date of receipt of this order, and the excess amounts, if any remaining with the DISCOM shall be paid to the appellants forthwith by way of adjustment in future bills.
- The interim orders given on 19-03-2014 stand subsumed in this final order.

15. This order is corrected and signed on this 2nd day of September, 2014.

VIDYUT OMBUDSMAN

To

1. M/s. Sofia Industries, S. No. 496-A, Kothapeta Village, Venkatampalli Road, Gooty, Anantapur Dt.
2. The Additional Asst. Engineer, Operation, APSPDCL, Gooty, Anantapur
3. The Assistant Divisional Engineer, Operation, APSPDCL, Anantapur Dt.
4. The Senior Accounts Officer, APSPDCL, APTRANSCO Office, Engg. College Road, JNTU Road, Anantapur 515 002
5. The Divisional Engineer, Operation, APSPDCL, Railway Station Road,

Gooty, Anantapur Dt.

6. The Superintending Engineer, Operation, APSPDCL, APTRANSCO Office,
Engg. College Road, JNTU Road, Anantapur 515 002

Copy to:

7. The Chairman, C.G.R.F., APSPDCL, 19/13/65/A, Sreenivasapuram,
Near 132 kV Substation, Tiruchanoor Road, Tirupati - 517 503
8. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,
Hyderabad - 500 004.