

VIDYUT OMBUDSMAN
O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 10– 05 - 2012

Appeal No. 12 of 2012

Between

Bhupatiraju Ramachandra Raju Rice Mill,
Prop : Bhupatiraju Achuta Rama Raju,
Penumadam Road, Palakol Village & Mandal,
W.G. Dist

... Appellant

And

1. Asst. Divisional Engineer / Operation / APEPDCL / Palakol
2. Divisional Engineer / Operation / APEPDCL / Bhimavaram
3. Senior Accounts Officer / Operation / APEPDCL / Eluru

....Respondents

The appeal / representation dt.17.02.2012 received by this authority on 27.02.2012 against the CGRF order of APEPDCL C.G. No. 375 / 2011-12 of West Godavari District dt. 24.01.2012. The same have come up for final hearing before the Vidyut Ombudsman on 23.04.2012. Sri. G. Krishnarjunudu, Accountant and Sri. Ch. Prasad for the appellant present. Sri. M. Rama Mohana Rao, AAE / Palakol on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

AWARD

The petitioner filed a complaint before the CGRF against the Respondents for Redressal of his Grievance. In the complaint the petitioner has mentioned that his HT Service was disconnected on account of exceeding the CMD with out giving any notice and he approached the Forum seeking justice.

2. The 1st respondent submitted his written submissions as hereunder.

The Assistant Divisional Engineer /DPE-I /Eluru inspected the premises of said service on 10/08/2009 and observed that, the consumer has unauthorized exceeded the sanctioned CMD of 175KVA by recorded MD of 226KVA and hence development charges and security deposit are to be levied for the additional load .Therefore necessitating additional load charges Accordingly Inspection Report was forwarded for issuing of P.A. notice. Based on the Inspection report P.A. notice was served to the consumer in the reference cited (8).

The Asst. Divisional Engineer /O/Palakol has been served one month notice to consumer in the reference cited (2) to (7) duly mentioned that, your company exceeding the CMD of 175KVA without prior approval and connected RMD as follows and also cautioned the service will be disconnected with out further notice if not regularized additional CMD/load.

<u>Month</u>	<u>Recorded MD</u>
07/2009	225.8
08/2009	201.6
09/2009	191.2
10/2009	193.2
11/2009	179.6
02/2010	181.8
03/2010	181.8
09/2010	182

As per GTCS Clause no 12.3.1 " No HT consumer shall connect any addl load in the existing HT service connection installation without obtaining the approvals of the chief electrical inspector to Govt of AP as required under rule 63 of the IE rules 1956 and without approval by the company and without signing of the company test report. Failure to the observed the above requirement shall render power supply liable to be disconnected summarily and the power supply shall remain disconnected till the unauthorized load is removed or regularized (By obtaining approval of the chief electrical inspector to the Govt, approval of the company and signing of the company test report by the consumer) whichever is earlier. The reconnection will be done after inspection by the designated officer and after He is satisfied compliance of these provisions."

As per GTCS Clause no 12.3.2 If at any time the Max demand of an HT consumer exceeds his contracted demand with out prior approval of the company, the consumer shall be liable to compensate the company for all damages occasioned to it equipment or machinery if any, by season of this default, and shall also the liable to pay the charges payable by him on account of such increase in demand or load and penalty, as prescribed by the commission from time to time, without prejudice to this right to this the company m y also cause the supply to consumer to be disconnected .

But the Complainant has given representation. He was stated that, the exceeding of MD as pointed out in the inspection is only due to mal operation of capacitors by the Mill driver but not utilizing the power and they are entitled for reduction of Maximum Demand which is stated as exceeded 51KVA as per clause of 5.9.4.2 of GTCS. And also requested the Forum to arrange for termination of service

The above representation given by complainant is not correct. The clause No. 5.9.4.2 of GTCS Applicable for consumer may seek reduction of CMD but in the above case the consumer has not regularized the additional CMD of 51 KVA and CMD of said service is 175KVA only.

The notices were served to the consumer disclosing all the incrementing points which mentioned and requested the consumer to regularize the load and company has given ample time for regularization of load but the consumer not responded since 07/2009. Accordingly services was disconnected as per the instruction of higher authorities.

The consumer has paid necessary development charges for an amount of 76500/- on 24.10.2011. And also consumer was advised to give representation for termination of service after expiry of minimum period of agreement by giving not less than 3 months notice in writing expressing his intention but not possible to terminate immediately as per his request."

2. After hearing both sides and after considering the material on record the Forum passed the following order :

- After thorough verification of records, written submission against HT Sc.No.611, Palkol, W.G.Dist in favour of M/s Bhupati Raju Rama Chandra Raju Rice Mill, the following order is herewith passed for implementation.
- As per clause No.5.9.4.3 of General Terms and Conditions of Supply the above said HT service shall be terminated after completion of 3 months period, issue one month notice for termination duly collecting minimum charges accordingly.
- The development charges collected for utilizing additional load as per clause No.5.3.3.1 of General Terms and Conditions of Supply are non-refundable.

Accordingly, the CG.No.375/11-12 is disposed off.

3. Aggrieved by the said order the appellant preferred this appeal and questioned on the following grounds (i) The forum has not considered his grievances and rejected his request. (ii) He had not used any additional load nor connected additional motors and it was only due to mal-operation of motors without observation of capacitors by the mill driver, but not by utilization of power. (iii) The additional MD recorded from 7/2009 to 9/2010 was only due to the mill driver mal-operation and defect of the existing meter. (iv) The ADE operation demanded 76,500 towards development charges, without considering his request. (v) The pressure of air gap between the starter and rotor of the induction motor increases the reluctance of the starter magnitude circuit. (vi) While running of no load, his Motor draws in phase current just to meet no load loss. The component is still relatively small as compared

with his magnetizing current. Hence at No load also, the Motor will have a low lagging power factor. Hence his additional MD was recorded though he has not used any additional load during the period from 7/09 to 9/2010 as alleged. (vii) No Electrical inspector inspected his service to record the additional MD under 63 of the IE Rules 1956. The stating of APEPDCL authority obtained the approval of Chief Electrical Inspector to Govt. for 51 KVA additional load is far of truth. (viii) No damage was occurred to the APEPDCL property as alleged due to exceeding of MD as it was mal operation of Motor by the Mill Operator. In addition to that he has incurred huge loss due to disconnection of supply having no fault with him though he did not use additional MD, he paid the additional M.D. Charges as demanded in the monthly CC Bills in addition to the actual usage of energy. (ix) The report of ADE is an after thought. If his request for removal of additional MD by got repairing the Motor and explanation by the ADE the question of payment of development charges of Rs. 76,500/- does not arise. The amount was high handedly collected from him. (x) He has delayed in submitting appeal to the SE/O/Eluru and CGRF is only due to anticipation of favorable report from ADE to repair the Motor and Capacitors to remove the additional MD recorded. (xi) The department delay in dismantle the HT service without considering his request, the valuable machinery would be spoiled due to normal wear and tear and he was put to a huge loss.

Hence it is prayed that the Vidyut Ombudsman to consider his appeal and do justice, and also kindly pass orders.

4. Now the points for consideration is, whether the impugned order is liable to be set aside? if so on what grounds?

5. Sri. G. Krishnarjunadu, the accountant of the appellant present and reiterated all the grounds mentioned in the appeal grounds and requested this authority to pass an order for refund of the amount. Whereas N. Ram Mohan Rao AAE, Palakol Town attend before this authority and stated that the forum has rightly considered all the relevant provisions of law and the terms of conditions of supply framed by the Commission and the appeal preferred by the appellant is liable to be dismissed.

6. It is clear from the record that the contracted maximum demand was 175 KVA. The maximum load recorded was 225.8 KVA in the month of August 2009. The additional MD required was 51 KVA. It is also clear from the record that 175 KVA is exceeded in all the months that is from 7/2009 to 9/2010. Clause 12.3.1 of DTC says that no HT consumer shall connect any additional load in existing HT connection installation without obtaining approval of chief electricity inspector to Government of Andhra Pradesh as required under 63 of the Indian electricity rules 1956 and without approval by the company and without signing of the companies test report. Failure to observe the above requirements shall render power supply liable to be disconnected summarily and the power supply shall remain disconnected till the unauthorized load is removed or regularised. Under clause 12.3.3.2 (iii) notice will be given for payment of service line charges, development charges and consumption deposit required for conversion of LT service into HT service. In this case, it is only HT service and it exceeded the CMD and he has to be dealt with as per clause 12.3.3.2. If the consumer does not pay HT tariff rates or required line charges development charges and consumption deposit, the service will be disconnected on expiry of notice period and it will remain under disconnection till the required service line charges development charges and consumption deposit are paid for regularisation of service.

7. It is clear from the record that several notices were issued for regularising additional load recorded. Clause 12.3.3.2 is amended by virtue of the proceedings of APERC dated 07.03.2012 which reads as follows

“12.3.3.2 (iii) one Month notice shall be given to regularize the additional Connected Load or part of additional load as per the requirement of the Consumer or to remove the additional connected load. If the consumer desires to continue with the additional connected load, he shall pay the required service line charges, development charges and consumption deposit required for conversion of LT service into LT 3(B) or HT service depending upon the connected load. However, if the consumer opts to remove the additional connected load and if the additional load is found connected during subsequent inspection, penal provisions shall be invoked as per the rules in vogue.”

Prior to the amendment of the above said clause, no facility is provided to withdraw the additional load, if it is continuously used. If it is a case of one month additional load it can be rectified soon after receiving a notice from the department but that is not the case herein and the excess MD is recorded nearly for 10 months. He did not move his little finger to regularize the same in spite several notices issued by the department from time to time. Instead of paying the development charges he has thrown the blame either on the driver or on the meter. He did not make any effort to get the meter tested for all these months. Instead of doing the same, he has made a request to accord approval for change of mode of utilization of power from rice mill to Coir Fiber as additional line of activity without change in either connected load or category. The SE operation issued a proceeding dated 26.08.2011 to collect revised H.T agreement from the consumer as per department rules in vogue.

8. In the month of October 2011, the compliant paid the development charges. As per clause 5.3.3.1 of GTC of supply, the development charges collected for utilization of additional load are non refundable.

5.9.4.3 reads as follows

“Where any consumer, whose supply is disconnected for non-payment of any amount due to the company on any account, fails to pay such dues and regularize his account within three months from the date of disconnection, the company shall after completion of 3 months period, issue one month notice for termination of LT or HT agreement, as the case may be. If the consumer still fails to regularize the account, the company shall terminate the agreement with effect from the date of expiry of the said one month notice. Such termination shall be without prejudice to the rights and obligations incurred or accrued prior to such termination.

The consumer may seek termination of the HT agreement after expiry of the minimum period of agreement by giving not less than 3 months notice in writing expressing his intension to do so.

Hence as per clause No. 5.9.4.3, after observation of 3months period from the date of disconnection of service and one month period after that, the said service shall be terminated without obtaining any representation from complainant.”

9. The appellant has approached the Forum with unclean hands and requested for equities. He is not entitled to the same. Having exceeded the CMD for a continuous period of 10 months and having failed to respond to the notices for a considerable length of time, he is not expected to ask for equities. Moreover, his contention is that he has not utilized the excess power and it is only due to the defect of capacitors or defect in the meter. He did not make any effort to get the meter tested. When he has not discharged the burden cast upon him, he cannot ask for a relief as claimed. If he discharges the burden and establishes the latches on the part of the respondents, no doubt one can arrive at a conclusion, that there is a deficiency of service and the same can be compensated. But that is not the case herein. Therefore, he is not entitled to the relief sought for in this appeal. The Forum has rightly considered the issue involved. There are not grounds to interfere with the same.

10. There are no merits in the appeal filed by the appellant.

11. In the result, the appeal is dismissed. No order as to costs.

This order is corrected and signed on this day of 10th May, 2012

Sd/-
VIDYUT OMBUDSMAN