

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

Present

**K.Sanjeeva Rao Naidu**  
Vidyut Ombudsman

**Dated: 31-08-2012**

**Appeal No. 47 of 2012**

Between

M/s. Sanath Nagar Enterprises Ltd.,  
(Formerly Bakelite Hylam Ltd)  
7-2-1669, Sanath Nagar,  
Hyderabad.

**... Appellant**

**And**

1. Senior Accounts Officer / Operation / APCPDCL / Hyd North Circle / Mint Compound / Hyd
2. Superintending Engineer / Operation / APCPDCL / Hyd North Circle / Mint Compound / Hyd
3. Chief General Manager / Commercial / APCPDCL / Corp. Office / Mint Compound / Hyderabad
4. Asst. Divisional Engineer / Operation / APCPDCL / Sanath Nagar / Hyderabad

**....Respondents**

The appeal / representation dt. 02.07.2012 received by this authority on 02.07.2012 against the CGRF order / letter of APCPDCL No. CP / CGRF-2 / C.G / 2012-13 / D. No. 1518 / 12 Dt. 19.06.2012. The same has come up for final hearing before the Vidyut Ombudsman on 25.07.2012. Sri. K. Viswanath Guptha and Sri. D. Srinivas Raju, Associated Vice President – Liaison representatives of the appellant present. Sri. M. Eswardas, ADE / O / Sanathnagar and Sri. J. Matrunaik, SAO / Hyd North on behalf of the respondents present. Heard both the parties and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

**AWARD**

The petitioner filed complaint before the CGRF against the Respondents for Redressal of the Grievances. In the complaint, the appellant has mentioned about the grievances as hereunder:

*They have got a connected load of 450 KW under H.T. category II. ADE served a notice on 22.12.2011 under clause 7.5.1 changing the category to H.T. Ty with back billing amount of Rs. 7,12,719.50. The Senior Accounts Officer without waiting for reply within 4 days, raised the bill. Hence they approached the CGRF. The CGRF without conducting any enquiry.*

2. The forum passed / issued the following order by addressing a letter on 19.06.2012.

*While acknowledging the receipt of your letter, it is to inform that you may contact the Superintending Engineer / Operation / North Circle / Mint Compound / Hyderabad for disposal of appeal pending with him.*

*If aggrieved by the final order SE / Operation / Hyd / North Circle you may prefer an appeal with the Chief General Operation, Metro Zone, Mint Compound, Hyderabad as per the procedure laid down in the GTCS.*

3. Aggrieved by the said order, the appellant filed the above said appeal projecting the following grounds.

The appellant is having a connected load of 450 KV under HT category II. On 30.08.2010, they received a notice under clause 7.5.1 of GTC proposing conversion of service from HT category II to H.T. Ty., with back billing for the period from 01.08.2010, in terms of the orders issued vide CGM (Comml.) / SE / DPE / ADE (T) / 1340 / 11 dt. 29.10.2011, for an amount of Rs. 14,25,439, with instructions to pay an amount of Rs. 7,12,719-50, within 7 days from the date of receipt of the notice, if the consumer wants continuance of supply. Even before giving reply, this service is converted into HT Ty. and issued the bill. The change of category is only under 3.4.1 for which a notice is to be issued much in advance. In the tariff order 10-11 it is only on the request of the consumer new connection has to be issued under H.T. Ty., but not by changing the old service connection. The notice issued is not in accordance with the procedure contemplated under HT tariff and the appeal preferred by the appellant is to be allowed by setting aside the impugned order

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

5. Sri. K. Vishwanath Gupta Retired Chief Engineer representing the appellant present and stated that giving notice and without giving 15 days time for reply is against to the procedure and that the tariff orders of both the years have stated about the new connection but not the old service since the appellant service is an old one and the same is not applicable to the case of the appellant and the appeal preferred by the appellant is to be allowed by setting aside the impugned order. The respondents are represented by M. Eshwara Rao, ADE, Operation, Sanath Nagar, J. Mathura Naik, Senior Accountant Officer, Hyderabad, present and stated that they issued the notice basing on the circular issued by the CGM and the appeal preferred by the appellant is devoid of merits and the same is liable to be dismissed.

6. The CGM has issued a notice circular dated. 29.10.2011. It reads as follows :

It is noticed that the HT services are being released wrongly under HT Cat-II for construction purpose. As per the schedule of retail tariff rates w.e.f. 01.08.2010, for construction purpose the supply at high tension shall be given under category of temporary supply only. As the Superintending Engineers / OP are designated officers for entering the agreement of HT supply as per GTCS vide designated officers notification amended up to dated. 27.02.2006, they are responsible for any wrong categorization of HT supply.

Further to the above, all the existing HT services released/running under HT Cat-II for any construction purpose on or after 01.08.2010 should be billed under HT temporary supply only. Necessary back billing should be done for the period from the date. 01.08.2010 under HT temporary supply tariff. If any deviation is noticed in the above instructions will be viewed seriously and action will be initiated against the concerned.

Hence all the Superintending Engineers/Operation are requested to issue necessary instructions to field for releasing of HT services for constructions purpose under HT temporary category as per rules in vogue. The Superintending Engineers/Operation are requested to furnish the list of HT services release/running under HT Cat-II for any construction purpose on or after 01.08.2010 immediately for taking necessary action.

7. The tariff order for both the years i.e. 2010-2011 and 2011-2012 on H.T temporary supply is one and the same. It is extracted as hereunder:

**For new connections: Temporary supply at High Tension may be made available by the Licensee to a consumer, on his request subject to the**

**conditions set out herein-after as also in Part-C. Temporary supply shall not ordinarily be given for a period exceeding 6(six) months. In case of construction projects, temporary supply can be extended for a period of 3 years. The electricity supplied to such consumer shall be charged for, at rates 50% in excess of the rates set out in the H.T. Tariffs applicable subject to, however, that the billing demand for temporary supply shall be the contracted demand or the recorded maximum demand registered during the month whichever is higher.**

8. It is apparent from the very said tariff order that it is applicable for new connections. It is also to be given on the request made by the consumer. Herein in this case it is not a new service connection and moreover there is no request on the part of the appellant to give H.T temporary supply. So the above said circular issued by the CGM Commercial & RAC is not applicable to the case on hand i.e. the appellant herein.

9. It appears, the respondent has issued a notice to change the category and even without waiting for reply within 15 days as contemplated under clause 3.4.1 of GTCS changed the category and issued the bill. It is also clear that notice was issued clause 7.5.1 of GTCS but not under clause 3.4.1. The mandatory provision is not complied by the respondents in this case. At the same time, the respondents are not precluded from issuing a notice in future under 3.4.1 while reclassifying the category, if they want to do the same.

10. It is the bounden duty of the respondents to give notice before reclassifying the category. As the same is not followed by the respondents in this case, the impugned order passed by the Forum is not sustainable and the same is liable to be set aside. The decision issued by the Hon'ble High Court in WP.No. 15293 of 2010 is also applicable to the facts of this case, as the Hon'ble High Court has also ordered that giving prior notice is mandatory.

11. In the result, the appeal is allowed and the impugned order is hereby set aside. Liberty is given to the respondents to issue a notice as contemplated under 3.4.1 and after hearing pass appropriate orders after considering the explanation /

reply if any given by the party. The amount already paid shall be adjusted in the future bills. No order as to costs.

This order is corrected and signed on this day of 31<sup>st</sup> August, 2012

Sd/-

**VIDYUT OMBUDSMAN**