



**BEFORE THE VIDYUT OMBUDSMAN  
Andhra Pradesh :: Amaravathi**

:: Present ::

**N. Basavaiah, B.Sc, B.L.**

Date: 28 -09-2020

Appeal No. 06 of 2020-21

**Between**

Sri K.V.K.Srinivasu, S.V.K.T.Naresh Silk Show Room, R.R.Peta, Eluru – 534 002

... Appellant- complainant

**And**

1. The Assistant Engineer / Operation/Eluru-Town/APEPDCL, Right of Over Bridge down, Ramakrishnapuram, Eluru – 534 002
2. The Assistant Accounts Officer/ERO-Eluru Town/APEPDCL/ Near Ambica Theatre, Canal Road, Eluru, West Godavari District – 534 001
3. The Assistant Divisional Engineer / Operation/Eluru Town/APEPDCL/, Right of Over Bridge down, Ramakrishnapuram, Eluru – 534 002
4. The Divisional Engineer / Operation / Bhimavaram/APEPDCL, Operation Division, Vidhyut Bhavan, RR Peta, Eluru, W.G.District – 534 002.
5. The Assistant Engineer/CT-Meters-Eluru/Circle Office, Eluru

....Respondents

**ORDER**

The above appeal- representation came up for final hearing, by way of Video Conferencing, before the Vidyut Ombudsman at the office of the Superintendent Engineer (Electricity Operation), Vijayawada on 21-09-2020. The complainant and the respondents were present. Having considered the appeal-representation and submissions of the above parties present, the Vidyut Ombudsman passed the

following:

1. This appeal has been preferred by the appellant-complainant against the order **dated.24-08-2020 in C.G.No:15/2020/Visakhapatnam**, passed by the **Forum for Redressal of Consumer Grievances in Eastern Power Distribution Company of A.P Limited, Visakhapatnam**, whereby and where-under the above Forum set aside the final assessment for short billing dated: 30-12-2019 for Rs.5,53,452/ calculated by the fourth respondent and directed the respondents to raise the short fall assessment taking into consideration of (-) 25.38% error in recording the energy during the period from 20-11-2017 to 07-11-2019.

2. The facts, in detail, are not so necessary. That the complainant has been a consumer of the respondents with respect to the electricity service connection No: 1511025105/058691 with LT Category -II of Eluru Town and that the meter of the above service connection was replaced on 20-11-2017 with DLMS meter, is not in dispute. That the fifth respondent inspected the above service on 30-10-2019 and on 07-11-2019 and noticed R Phase and B phase potentials wrongly connected i.e. reversed, is also not in dispute. That when the meter was tested with ACCU CHECK meter, the error in the negative value was noticed, is also not in dispute. That basing on MRT test report, provisional assessment notice was issued by the 3rd respondent to the complainant for an amount of Rs. 7,65,331/- for the period from 20-11-2017 till 07-11-2019, is also not in dispute. That when the meter was again tested in the presence of the fourth respondent on the request of the complainant, the percentage of negative error was reduced and came down to -25.88 %, is also not disputed. Basing on the revised MRT test report, final order was issued by the 4th respondent for the same period on 30-

12-2019 for Rs. 5, 53,452/-. The case of the complainant is that there is no fault on his part, and as per the GTCS, the assessment is to be raised only for one year but not two years, while it is the case of the respondents that their claim is as per the clause 7.5.1.4.4 of the GTCS-2006.

3. Ex-B1 to B7 were marked before the Forum. No oral evidence had been adduced. After considering the material available on record, the Forum passed the orders as stated supra. Not satisfied with the above orders, the complainant preferred this appeal representation.

4. The appellant submitted that there is no fault on his part, that had the department people inspected the meter within time as per law, he would not have faced this problem, that the consumption of units is not changed after changing the phases association of the meter, and as such, the meter has not been defective. Therefore, he prayed to allow his appeal.

5. The respondents submitted that the assessment has been made in this case as per the clause 7.5.1.4.4 of the GTCS and there are not merits in this appeal and that therefore the appeal may be dismissed. They, subsequently, sent a written submission through 'whatsapp' stating that the assessment was made as per the Annexure XII (VII)(c) of the GTCS-2006 coupled with the clause 7.5.1.5.4 of the GTCS.

6. The following point is framed for consideration:

**Whether the third respondent applying the guideline given under the Annexure XII (VII)(C) (I) of the GTCS for assessment of short billing in this case is not legal and correct?**

**7. Point:** At the outset, I would like to say that there are no provisional assessment and final assessment notices or orders for short billing and that there is only one assessment notice for short billing. In my view, applying the above guideline by the third respondent or the fourth respondent is not legal and correct as the alleged final assessment notice or order for short billing dated.30.12.2019 is silent why the assessing officer, the third respondent, or the fourth respondent preferred the third guideline to the remaining two guidelines given in the GTCS. The relevant clauses of the GTCS-2006 touching the point framed, run as follows:

7.5.1.4 When a meter is found defective during meter reading or on inspection or otherwise, the following guideline shall be followed for computation of the assessed units.

7.5.1.4.1 The number of units to be billed during the period in which the meter ceased to function or became defective, shall be determined by taking the average of the electricity supplied during the preceding three billing cycles to the billing cycle in which the said meter ceased to function or became defective provided that the condition with regard to use of electricity during the said three billing cycles were not different from those which prevailed during the period in which the Meter ceased to function or became defective.

7.5.1.4.2 If the conditions with regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any 3 (three) consecutive billing cycles during the preceding 12 Months when the conditions of working were not different.

7.5.1.4.3 Where it is not possible to select any 3 (three) consecutive billing cycles consumption, as indicated in clause 7.5.1.4.1 or 7.5.1.4.2 above, or if there is no meter installed, the number of units shall be assessed on the basis of the Assessment Rules in Appendix XII herein. Industrial consumers shall be given due consideration for the production figures and conditions of working in the period under question. For all services/ equipment, which cannot be classified with the aid of the groupings under LT I, II, III, Annexure XII (V) of Appendix XII of the GTCS may be used for the calculations. Annexure XII (V) of Appendix XII is also

*applicable for services under LT IV, V, VI, VII and VIII.*

7.5.1.4.4 to 7.5.1.5.3 *Not necessary.*

7.5.1.5.4: Wherever the test results indicate a clear level of error, the bills for the period of defectiveness of the meter, Bills for the period prior to the month in which the dispute has arisen may be adjusted as per the test results. In case the meter is found to be fast, the refund shall be adjusted in the next bill. In case meter is found to be slow, additional charges shall be recovered along with the next bill.

The words in the above clause 7.5.1.4.3 "Where it is not possible to select any 3 (three) consecutive billing cycles consumption, as indicated in clause 7.5.1.4.1 or 7.5.1.4.2" are to be noted with great significance. The above clause 7.5.1.4.1, the first preferable guideline to be followed in a case of this nature, says that the number of the units to be billed are to be determined by taking the average of the electricity supplied during the preceding three billing cycles as stated in the above clause, while the clause 7.5.1.4.2, the next guideline to be followed, says that the assessment is to be made on the basis of any three consecutive billing cycles during the preceding 12 months as stated in the clause. The clause 7.5.1.4.3, the third guideline to be followed, says that if it is not possible to select either the above first guideline or the above second guideline, the number of units are to be assessed on the basis of Assessment Rules in Appendix XII. Since there is no material available on record that it is not possible to select any three consecutive billing cycles consumption, as indicated in clause 7.5.1.4.1 or 7.5.1.4.2 above, assessment of number of units by the third respondent or the fourth respondent on the basis of Assessment Rules in the Appendix XII is not correct and legal. The clause 7.5.1.5.4, relied upon by the respondents, will come into play only when the necessity to follow the above third guideline arises. The

respondents cannot directly follow the third guideline without considering the possibility of selecting any three consecutive billing cycles consumption as indicated in clause 7.5.1.4.1 or 7.5.1.4.2 above. The Forum did not consider the above legal aspect. Considering the facts and circumstances of this case, I feel there is no need to discuss the submission made by the appellant at this stage. For the above reasons, I decided this point in favour of the appellant against the respondents. This point is thus answered.

8. Since the above point is answered in favour of the appellant complainant and since the Forum dismissed the complaint without considering the above legal aspect, the order of the Forum, as well as, the alleged final assessment notice or order for short billing, under the original of Ex.B4, is liable to be set aside, and the appeal-representation is liable to be upheld.

9. In the result, I allow the appeal-representation, set aside the order of the Forum, as well as , the final Assessment orders of the fourth respondent dated.30.12.2019 and direct the third respondent, being the designated officer, to issue assessment notice for short billing in this case afresh by following the prescribed guidelines for computation of the assessed units as per the clauses No.7.5.1.4.1.,7.5.1.4.2 and 7.5.1.4.3 of the GTCS-2006 besides the observations made in this order supra. There is no order as to costs.

9. A copy of this order is made available  
[www.vidyutombudsman.ap.gov.in](http://www.vidyutombudsman.ap.gov.in)

This order is corrected and signed on 28<sup>th</sup> September, 2020.

s/d. N.Basavaiah

**VIDYUT OMBUDSMAN**

**To**

1. Sri K.V.K.Srinivasu, S.V.K.T.Naresh Silk Show Room, R.R.Peta, Eluru – 534 002
2. The Assistant Engineer / Operation/Eluru-Town/APEPDCL, Right of Over Bridge down, Ramakrishnapuram, Eluru – 534 002
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6. The Assistant Engineer/CT-Meters-Eluru/Circle Office, Eluru

**Copy To:**

1. The Chairman, C.G.R.F., APEPDCL, P & T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam – 530 013.
2. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004

**//CERTIFIED :: TRUE COPY//**

**//FORWARDED :: BY ORDER//**